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A

TREATISE

OF Saml. Miller.

Beneficiary Matters:

OR, A

HISTORY

Of Ecclesiastical

Benefices and *Revenues*.

In which are set forth their *Rise* and *Progress*, and the *Various Means* by which they have accrued to the Church.

By Father Paul, Sarpi *of the Order of the* Servites, *and Consulter of State to the Republick of* Venice.

Translated from the most Correct Copy in *Italian* extant, printed at *Mirandola*, 1676.

To which are added *Notes* and *Observations*; most of which were collected by M. Amelot de la Houssaie; which serve as authentick Confutations of the Calumnies spread against the Author.

WESTMINSTER:
Printed by *J. Cluer* and *A. Campbell*; for L. Stokoe, at the *Bible* and *Key*, near *Coventry-Court*, in the *Hay-Market*; And sold by the Booksellers of *London* and *Westminster*. 1727.

Harvard University

ERRATA.

IN the Preface of the *French* Translator Page 1. Line 18. for *Evils* read *Events*. p. 28. l. 5. dele *ignorant*. p. 64. l. ult. after *nor* add *were*. p. 65. l. 3. before finding add *these*. p. 68. l. 2. dele *by*. p. 101. l. 9. for *Regale* r. *Regalia*. p. 130. l. 10. for *of* r. *in*. p. 133. in the Notes, col. 2. l. 2. for *sacerdotio* r. *sacerdotia*. p. 137. in the Notes, col. 1. l. 9. for *negent* r. *neget*. ibid. col. 2. l. 23. for *were* r. *was*. p. 148. in the Notes, col. 1. l. 14. for *mergeretur* r. *mergerentur*. p. 158. l. 4. for *Gregory* VI. r. *Gregory* VII. p. 163. l. 16. at *Taxes* add the Reference (10). ibid l. 22. after *is* add *in this case*. p. 175. in the Notes, col. 2. l. 13. for *Officiates* r. *Officiales*. p. 180. in the Notes, col. 1. l. 10. after *State* add *are to be corrected*. p. 201. in the Notes, col. 1. l. 5. after *plebem* add *quacunq; generatione*. p. 207. in the Notes, col. 2. l. penult. for *exemptis* r. *exemis*. p. 214. in the Notes, col. 1. l. 18. dele *he made*. p. 220. l. 19. dele *laudable*. ibid. l. 26. for *she* r. *it*. p. 227. in the Notes, col. 1. l. 31. for *veneantur* r. *vereantur*. ibid. col. 2. l. 12. for *notiam* r. *notitiam*. p. 230. l. 27. for *not* r. *no*. ibid. l 28. for *the* r. *this*. p. 235. in the Notes, col. 1. l. 7. after *of* add *a*. p. 239. l. 9. for *uniti* r. *initi*.

The *French* Tranſlator's

DEDICATION

TO

Mr. le TELLIER, Chancelor of *France.*

My LORD,

AMONG all the Books which have been dedicated to you, I know none which can diſpute the Merit with this Treatiſe of Beneficiary Matters. All the Learned, who

 have

have read it in the original *Italian*, agree, That it is in nothing inferior to the celebrated Hiſtory of the Council of *Trent*, but in the Size: And there are even many of the moſt approv'd Judges, who make no Scruple to give even the Preference to this.

THIS has made me preſume it a Preſent worthy of you, as the Perſon, of all others, the moſt capable of judging of its true Merit: And my Friends have deſir'd I would not let it go into the World without ſeeking ſuch a Protection as would both be the greateſt Honour, that could be procur'd, to the Memory of *Pad. Paolo*, and one of the moſt effectual Means to remove the Prejudices againſt him.

BUT

BUT as the greateſt Number of Criticks are not exempt from the Exerciſe of that Talent on themſelves, and that of the ſeveral Verſions which have been made of this Treatiſe within ſeven or eight Years, there has not one yet appear'd in Publick, I thought I might, with Reaſon, decline ſeeking the Approbation of the College; of which no Writing has any Need which is ſupported by that of all the Parliaments, and of all the moſt refin'd Wits of the Kingdom.

THERE is nothing more to be deſir'd, my Lord, but your Protection, and which if you continue to afford, as you have already been pleas'd to do to the Tranſlation of the Council of

Trent, no other Patronage or Support will ever be wanting.

In publica Commoda peccem
si longo Sermone morer tua
tempora, *&c.*

Your LORDSHIP's

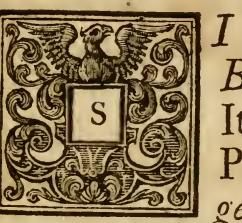
Most Humble, and

Obedient Servant,

AMELOT DE LA HOUSSAY.

PRE-

PREFACE
Of the *French* Tranſlator.



SINCE the Treatiſe of Benefices firſt appear'd in Italian, *written by* Pad. Paola, *there has been a general Expectation of a Tranſlation of it into* French; *and I was rather led into the Expectation of its appearing ere long, from the Report ſpread among the Men of Letters, That there were five or ſix Tranſlations which were, or would be printed in different Places. This furniſh'd me, for ſome Time, with an Anſwer to the Importunity of ſome Friends, that I would undertake this Work, and indulg'd my own Inclination in not interfering with other Writers.*

But at laſt, through a certain Fatality in writing, as in other Evils of Life to which a Man is fated, it has come to paſs, that the ſame Reaſon which I firſt gave for my Excuſe, has brought me to comply with their Deſires: So I ſhall

have those for Readers, who I hop'd would have been Writers themselves; and am, perhaps, also to undergo the Censures of those, whose Writings I doubt not but I should have had in very just Esteem. For the Excellency and Importanee of the Subject will not suffer me to doubt, that the Translation has been undertaken by Men of very suitable Abilities, whose Approbation is of that Authority, as to have given such a Reputation to this Undertaking, that my own Wishes could not have suggested a better Fortune to attend it.

As to my Author, there is no need of saying any thing here, either as to his Person or his Writings, the World is so well inform'd of them both. I shall only say, That having had three Cardinals, of the greatest Characters for Learning, his Adversaries during his Life, and a fourth after his Death, he had the Honour however to be acknowledg'd for the best Writer of his Age: And if I mistake not, as well as many others, this Treatise will not be thought to contradict this Opinion.

I have divided the whole into 54 Chapters or Articles, for the Ease of those who

are

are not apt to overcharge themſelves with reading much at a time, and the better to trace out the Order and Conſequence of the ſeveral Heads, which all deſerve to be read with the ſtricteſt Attention.

As for my own Notes and Obſervations, I flatter my ſelf with the favourable Reception they will meet with from the Publick; ſuch a Reception, I mean, as is due to Truth; ſeeing they contain a Verification of all the Facts which Pad. Paolo *relates, and which ſerve as authentick Proofs of his Integrity, and of his having aſſerted nothing for which he has not ſufficient Vouchers.*

When we look into the Hiſtories of Matth. Paris, Platina, Panvinius, *and* Baronius, *and find what is there recorded of ſome Popes,* Pad. Paolo, *whom the Cardinal* Pallavicino *wou'd make paſs for an impious Impoſture, and for one who makes it his Profeſſion to vilify all Popes, will be allow'd to expreſs himſelf with great Modeſty of ſome of them, and particularly* Innocent IV. *whom all the Writers, both ancient and modern, deſcribe as a roaring Lion, who ſought nothing but*

how to devour all the Benefices that came within his Reach.

And when we read that St. Thomas, *the Cardinal* Cajetan *his Commentator, with many other great Divines and Lawyers, determine with so much Clearness, that the Pope is not the Proprietor of the Goods of the Church, but only the principal Dispenser of them,* Pad. Paolo *must also be allow'd not to have embrac'd this Opinion from any Motive of Hatred to the Popes, but from a Sense of its being conformable to the Doctrine of the Fathers and the sacred Canons.*

In fine, *whoever will read what* Mat. Paris, *the Monk, writes of the famous* Robert, *Bishop of* Lincoln, *and of several Archbishops of* York, *who were cruely treated by the Popes* Innocent IV. *and* Alexander IV. *will (3) find very near Resemblance betwixt the Persecutions rais'd against these two Bishops, and that by Pope* Paul V. *against* Pad. Paolo, *who defended, very near, the same Cause.*

(3) See the Notes on *Chap.* 35.

Note, That in the *English* Translation the Method of the *French* Translation in the Division of Chapters is observ'd, there being no other Variation from the *Italian.*

An

An ADVERTISEMENT, *concerning a Book, intitled,* The History of the Original and Progress of the Ecclesiastical Revenues, by *Jerom à Costa.*

AS there is a great Relation betwixt this Book and the Treatise of Benefices wrote by Pad. Paola, *an able Lawyer who has compar'd one with the other, has made a Judgment of them, which I have thought well deserv'd a Place here for the Instruction of Readers who have not read them both, or who are not able, by any Lights of their own, to determine to whom the Preference is due.*

The Author of the Republick of Letters *seems to give the Preference to* à Costa, *in concluding in these Terms:* It is believ'd that this Book surpasseth the excellent Treatise of *Pad. Paolo,* concerning Beneficiary Matters. *Artic.* 3. *of the Month of* May, 1684.

Our Lawyer, on the other side, sets no Value on the Book of à Costa: The History, *saith he,* of the Original and Progress

Progreſs of Eccleſiaſtical Revenues by *Jeram à Coſta*, is no more than a Repetition of all that hath been ſaid in the Treatiſe of Benefices by *Pad. Paolo*, tho' *Jerom à Coſta* pretends it is a Supplement. It is true indeed, that he ſpeaks of the Original of private Maſſes, and of the Privileges call'd the Monarchy of *Sicily*, of which *Pad. Paola* makes but juſt mention, but theſe Particulars, with ſome others which he handles, make not much to the Purpoſe: Beſides that he draws his Proofs often from a Cartulary only of ſome particular Monaſtery, from which no general Concluſion can be made.

So that thoſe who have read the Treatiſe of Father *Paul* will find nothing new or differing from this of *à Coſta*, except only a great deal of Confuſion: For it is a Work ſo ill digeſted, that the chief Thing which the Author ſeems to have propos'd to himſelf has been, to deſtroy all the admirable Method which the other hath throughout obſerv'd with ſo much Exactneſs.

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this Bull, pretends the Pope is absolute Proprietor of all Benefices. 17. The Canonists hold this Doctrine for an Article of Faith. 18. And endeavour to prove that the Chapters have receiv'd the Right of Election, and the Bishops that of conferring the Benefices of their Dioceſſes, both from the Pope. 19. *Anſelm* Bishop of *Lucca* contradicts them in expreſs Terms. 20. There is Reaſon to ſay, that the Popes ſince *Gregory* VII. have put the Churches into Servitude.

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1. The Prohibition to alienate the Goods of the Church directly contrary to the Uſage of the Primitive Church. 2. Temporal Riches have taught the Biſhops to waſte and diſſipate, inſtead of diſpenſing as they ought. 3. *Leon*, Emperor of *Conſtantinople*, forbids the Church to alienate. 4 A *Prefectus Pretorio* forbids the ſame to the Church of *Rome*. 5. The Pope *Simmacus* ſaith, that Seculars have no Right to ordain any thing in the Churches. 6 *Juſtinian* the Emperor permits the Goods of the Church to be alienated for Relief of the Poor, and Redemption of Chriſtian Slaves. 7. In former times the Temporals of the Church were in the firſt place employ'd in Uſe of the Publick. 8. At this Day it is not permitted to the Churches to alienate, but for an evident Advantage. 9. Thus the Poor have no more to hope from the Churchmen.

CHAP. XXXVII. *page* 167.

1. The Reſervations. 2. Reſtrain'd by *Gregory* X. 3. A little enlarg'd by *Clement* V. 4. The deceitful Bull of *John* XXII. 5. His Skill in multiplying the Proviſions of Benefices.

CHAP.

CHAP. XXXVIII. page 170.

1. The Annates. 2. Whether it is permitted to Princes to receive by way of Acknowledgment a part out of the Benefices, which they conferr'd. 3. The Annates prejudicial to Princes, and burdenſome to private Perſons. 4. Cenſured by good Men as ſimonaical. 5. Defended by others. 6. Whether the Pope can be guilty of Simony in the Collation of Benefices. 7. The immenſe Treaſure of Pope *John* XXII. 8. The *Quindennium*, A Duty laid by *Paul* II. 9. Enlarged by *Paul* IV. and *Sixtus* V. 10. Reſervations made by *Benedict* XII. for his Life only. 11. Continued by *Clement* VI. 12. The King of *England* oppoſeth the Reſervations and the Expectatives. 13. *Innocent* VI. revoketh them all. 14. The great Abuſe of the *Indices Expurgatoriæ*. 15. The Reſervations aboliſh'd by *Gregory* XI. at the Requeſt of the King of *England*. 16. Two *Roman* Courts, both of them ſet Benefices to Sale. 17. *Urban* VI. diſcovers a ſecret Intereſt, which all his Predeceſſors had carefully conceal'd. 18. Benefices given to the beſt Bidder.

CHAP. XXXIX. page 184.

1. Violent Exactions by the two Cours of *Rome*. 2. *Germany* admits neither Reſervations, nor Expectatives. 3. A Legate ſent into *Germany* to compound with the Beneficiaries provided by the Biſhops. 4. Oppoſed by the Emperor. 5. Three Popes at one time. 6. *John* XXIII. recovereth the Collation of Benefices in *France*. 7. Loſeth it in the State of *Florence*. 8. The Popes Bulls fill'd with inextricable Clauſes to eternize the Proceſs and multiply the Annates. 9. As Princes

reform'd the Abuſes of the Court of *Rome*, that Court brought forth others, by which ſhe gains more than ſhe loſt.

CHAP. XL. *page* 189.

1. The Reſignations, their Original. 2. Their Abuſe. 3. In which the Court of *Rome* finds its Account.

CHAP. XLI. *page* 192.

1. The Indulgences. The Sale of them the cauſe of the Schiſm in *Germany*. 2. The Bull of *Pius* V. againſt this Abuſe.

CHAP. XLII. *page* 194.

1. The religious Mendicants are allow'd to acquire Eſtates. 2. *France* oppoſeth. 3. The Schiſm extinguiſh'd by the Depoſition of the three Popes, who reign'd together. 4. *Martin* V. their Succeſſor refers the Reformation of the grinding Taxes upon Benefices to the Council of *Pavia*. 5. *France* will not own him but on Condition that the Reſervations and the Expectatives be aboliſh'd. 6. The Parliament of *Paris* twice declareth againſt the Pope's Proceedings.

CHAP. XLIII. *page* 197.

1. The opening and cloſing the Council of *Pavia*. 2. The Council of *Baſil* at length aboliſheth the Reſervations, the Expectatives, and the Annates. 3. *Eugene* IV. diſſolv'd this Council, and the Council choſe another Pope. 4. *France* and *Germany* receive its Decrees. The Pragmatick Sanction publiſh'd in *France*.

CHAP.

CHAP. XLIV. page 199.

1. Mental Reservations introduced in *Italy*. 2. And then abolish'd. 3. Great Abuse of the Resignations *in favorem*.

CHAP. XLV. page 201.

1. The Regress and the Access. The Original and Abuse of them. 2. The Pope alone grants the Faculty of Regress and Access. 3. The Parliament of *Paris* admits neither the one nor the other.

CHAP. XLVI. page 204.

1. The Coadjutorship, its Original. 2. Its Abuse. 3. The Concordate betwixt *Nicholas* V. and the Emperor *Fredrick* III. 4. Ill observ'd in *Germany*. 5. The Jesuists oblige the Beneficiaries to observe it. 6. The Elections or Collations, which derogate from this Concordate, are annull'd at *Rome*.

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CHAP. XLVIII. page 211.

1. The Concordat of *Francis* I. with *Leo* X. 2. The University of *Paris* makes Opposition. 3. Why the Popes have got the Pragmatick to be abolish'd. 4. Suspension of the Concordat under *Henry* II. 5. The Concordat reform'd by the Estates of *Orleans*. 6. *Charles* IX. suspends the Execution of this Reformation in Favour of the Pope.

CHAP.

CHAP. XLIX. page 215.

1. A Reformation made by the Council of *Trent* concerning Benefices. 2. The Council decides not the Queſtion about Reſidence for fear of wounding the Authority of the Pope. 3. And is ſilent as to the Reſervations.

CHAP. L. page 220.

1. The Penſion, its Original. 2. Its Conveniencies, or rather its Abuſes. 3. Whether it is Simony to extinguiſh a Penſion charg'd on a Benefice, by taking a Sum of Money agreed upon. 4. The Decree of the Council of *Trent* that no more Monaſteries ſhould be put in *Commendam*, hath not been obſerv'd. 5. The Pope by means of the Reſervations has become Maſter of almoſt all the Benefices of *Italy*. 6. The Popes have taken care to tye the Hands of the Biſhops. 7. The Bull of Pope *Pius* V. which forbids the Collators to confer any Benefices reſign'd, to Kindred, Allies, or Domeſticks of the Reſigners.

CHAP. LI. page 229.

1. The Doctrine of the Canoniſts, which ſerves to encourage and promote Simony. 2. The Popes have preſerv'd the Biſhops from the Contagion of Simony, but have not been able to defend themſelves from it. 3. Of which the Flatterers are the Cauſe. 4. Every Church is Proprietor or Owner of the Goods which ſhe poſſeſſeth. 5. The Canoniſts have alter'd all the ancient Policy of the Church, in aſſerting the Pope to be the ſole Proprietor of all Benefices. 6. According to *Navarr*, the Pope cannot change Teſtamentary

mentary Diſpoſitions without a lawful Cauſe. 7. How he interpreteth the Propoſition of the Canoniſts, that the Will of the Pope is in place of Reaſon in Beneficiary Matters. 8. The Senſe which he puts upon the Bull of *Clement* V. 9. The Opinion of the Canoniſts gratifies all ſuch as thirſt after many Benefices. 10. Impoſſible to reconcile it with Reaſon, and leſs with Divinity.

CHAP. LII. *page* 236.

1. If the Pope have ſuch abſolute Power, from whence doth he derive it? 2. Why have his Predeceſſors for more than 1000 Years made no uſe of it? 3. If the Papal Authority be unlimited, why have the Popes limited it by Concordates and other Tranſactions with Princes?

A Queſtion relative to Chap. 21. *containing the Sentiments of the Fathers and Doctors, upon the right uſe, which the Beneficiaries ought to make of the Fruits and Revenues of their Benefices. The Point in Queſtion is to know, Whether the Beneficiaries have really the uſufruct, or only the Diſpenſations?* Navarr, *tho' a Canoniſt, maintains, that they are meerly the Diſpenſers. The Cardinal* Cajetan *holds a middle Opinion.* Fra. Paolo *adds own in Concluſion.*

CHAP. LIII. *page* 248.

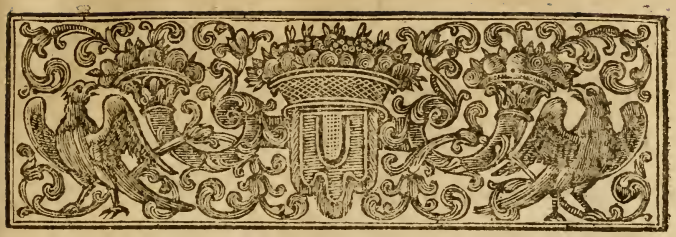
1. The Order of Mendicants have loſt their Credit in deſiring to make uſe of the Permiſſion granted them by the Council of *Trent* to acquire immoveable Eſtates. 2. The Capuchins have preſerved the Affection of the People by remaining in their Poverty. 3. The Jeſuits hold a middle Courſe betwixt Poverty and Riches. 4. *Moſes* when he had

had sufficient for the Tabernacle, refus'd to receive any more Gifts from the People of *Israel*. 5. The *Levites* had no other Estates but the Tenths. 6. If the Clergy hold now the Place of the *Levites*, why are they not contented with the Tenths?

CHAP. LIV. *page* 252.

1. In the Primitive Church whatever the Priests left at their Death, return'd to the common Mass. 2. After the Church Estates had been divided into Benefices, the *Spolia* of the Beneficiary, *viz.* the Goods he dy'd possess'd of, went to the Community of the Clergy or to his Successor. 3. In several Countries the Beneficiaries could devise by Will the Fruits of their Benefices. 4. The Popes apply to the Apostolick Chamber all that the Beneficiaries leave at their Death. 5. The Extortions of the Collectors of these *Spolia*. 6. *Charles* VI. King of *France* takes the *Spolia* of the Bishops and Abbots from the Pope. 7. *Paul* III. by a Bull declareth, that the *Spolia* of all the Beneficiaries of the World belong to the Catholick Chamber. 8. Pope *Pius* IV. carries this yet higher. 9. The Clergy of the Kingdoms of *Castile* are exempt from the Exaction of the *Spolia*. 10. Upon what this Right is founded.

THE



THE INTRODUCTION.

THAT ancient Fervour of Devotion, which, for ſo many Ages, with mighty Influence both on Princes and private Men, had prevail'd over the Chriſtian World to make thoſe vaſt Donations to the Church, being now not only ſenſibly abated, but, with it, the exemplary Care of its Miniſters, in the pious Diſtributions of thoſe Bounties; and their Succeſſors, the Churchmen, in theſe latter Ages, having turn'd

turn'd that Care into another, no leſs engaging, and in which they are indefatigable, of getting all they can, and defending what they have got, we muſt not be ſurpriz'd, if, in ſo great a Scarcity of faithful Stewards in the Church, it has been thought neceſſary to reſtrain theſe Acquiſitions by Laws; or that all the good Men ſhould be warm'd with a Zeal to ſee the Adminiſtration of the Temporal Riches of the Church reſtor'd to ſome Degree of Reformation at leaſt, if not to its primitive Strictneſs.

Its preſent Corruptions have not crept into the Clerical Order, or grown to that exorbitant Pitch in an Inſtant; but from a State of Perfection (I had almoſt call'd Divine) the Churchmen are by Degrees ſunk, as themſelves confeſs, into a State of Impurity, viſible to all the World, and by ſome held incapable of Remedy.

Not but with the ſame Portion of Divine Favour, which has ſhone ſo bright on

our

our Predeceſſors, we need not deſpair of ſeeing the like Wonders of Sanctity produc'd in our Days. But as we have been ſinking for Ages into ſo low a State of Corruption, we muſt be contented to take the ſame Steps in re-aſcending to regain, if poſſible, that Degree of Perfection which the Church once enjoy'd.

And ſeeing this is not to be obtain'd without knowing in what Method the Temporalities of the Church were at firſt manag'd; and how, and by what Degrees this good Government came to fail, it will be neceſſary in the firſt place, to enquire into the Means of the Church's acquiring at firſt her Temporal Riches, and the Method ſhe us'd upon every Mutation that happen'd, in appointing Officers to diſtribute or preſerve them.

This will diſcover to us the Obſtacles, which hitherto have retarded a happy Reformation;

formation; and inſtruct us in the Means to ſurmount them.

Thus much for our Deſign in the preſent Treatiſe of Beneficiary Matters; a Subject ſo copious, that it is not eaſily to be exhauſted.

THE

THE

HISTORY

Of Ecclesiastical

Benefices and *Revenues.*

CHAP. I.

FROM the Time that Jesus Christ first convers'd in the World, the Church began to have Revenues; which first arose purely from the Offerings of devout Persons, and were distributed by an appointed Officer, only to two Uses; the one, of our Saviour himself, and his Apostles, who preach'd the Gospel; the other, of the Poor. This appears clearly in St. *John*, who says, that *Judas* kept the (*a*) Purse, and made the Disbursements, providing all Necessaries for the Community, and distributing the rest to the (*b*) Poor,

(*a*) Loculos habens, ea quæ mittebantur portabat. *Cap.* 12.

(*b*) Loculos habebat Judas, quod dixisset ei Jesus: Eme ea quæ opus sunt nobis ad diem festum; aut egenis, ut aliquid daret, *Cap.* 13. Quia de egenis pertinebat ad eum, *Cap.* 12. *Because this was his Business.*

Loculos *is properly what is call'd the Poor's-Box.*

according to the daily Directions he receiv'd from our LORD.

St. *Auguſtine* obſerves, That tho' Jesus Christ, who had Angels for his Servants, had no Occaſion for Money, he nevertheleſs thought fit to make uſe of it, that he might leave to his Church the greateſt Authority upon Earth, (his own Example) of her Duty; and how ſhe ought to enjoy, and how to employ what ſhe poſſeſſeth.

And if this holy Inſtitution be not obſerv'd in our Days, we ought to conſider that the holy Scripture, both for our Inſtruction and Conſolation tells us, That *Judas* was a Thief, that he robb'd the Apoſtolick College, and converted the Money to his own uſe; and that his boundleſs Avarice, and Impiety carried him, at laſt, to betray, even, the Perſon of our LORD himſelf, for Money.

If therefore, either Hiſtory of paſt Times, or Obſervation of the preſent inform us, That a great Part of the Eccleſiaſtical Goods is employ'd in Uſes very different from pious, and that ſome of the Miniſters of the Church ſo far from contenting themſelves with ordinary Sacriledge, and appropriating to themſelves what belongs in Common to the Church and the Poor, are become ſuch Invaders of ſacred Things, that they ſet to Sale even Spiritual Graces for Money: It is not to be aſcrib'd to any particular Fate on this, or the forgoing Ages, but to the Methods of the Divine Wiſdom in exerciſing the Righteous; ſeeing the Church from its Infancy, and through all Ages, hath been ſubject to the ſame Imperfections.

All that remains incumbent on us is, every one in his Station to contribute towards a Remedy of theſe Evils, by Prayers, where other Means are denied him; and by a couragious Oppoſition to theſe Abuſes, where it can be effectual. For tho' *Judas*

met

met not his Punishment from Men in a common Way, because those who ought to have inflicted it, were his Accomplices, yet the Divine Providence fail'd not to point out what Punishment he deserv'd, by disposing him to be his own Executioner: As a Warning and Admonition to Governors and Guardians of the Church in succeeding Ages.

CHAP. II.

AFTER the Ascension of our SAVIOUR into Heaven, the Apostles continu'd the same Method in the Church of *Jerusalem*, of gathering Money for the Maintenance of the Ministers of the Gospel, and Relief of the Poor: And the Believers, besides the Offerings that were gather'd, sold all their Estates, and put them also into the Common-stock: So that no Distinction was made betwixt the Goods of the Church, and those of every true (*a*) Believer: Which is yet practis'd in some of the Religious Houses, who preserve their first Institution.

Now the primitive Christians had the less Conflicts with human Nature in parting with their worldly Goods, and bestowing them in Alms, from the Contemplation of the Uncertainty in which JESUS CHRIST left them, as to the Duration of this

(*a*) Omnes qui credebant erant pariter, & habebant omnia communia. Possessiones & substantias vendebant, & dividebant ea omnibus prout cuiq; opus erat, *Act. Apost.* 2.

Nec quisq; eorum quæ possidebat aliquid suum esse dicebat: Sed erant omnia illis communia. ----- Nec quisquam inter illos erat egens, quotquot enim possessores agrorum aut domorum erant, vendentes afferebant pretia eorum quæ vendebant: Dividebatur autem singulis prout cuiq; opus erat, *Act.* 4.

World, and the Expectation they liv'd in of its speedy Dissolution (*b*): Or at least, they enjoy'd it with less Sollicitude, as not knowing how long it was to last; and in the full Persuasion that the Form and Figure of this World, and this present State of Life would, however, suddenly be chang'd and pass away (*c*). Contemplations like these, and which were so apt to make Men serious, contributed still more to the Frequency of their Offerings.

But the Custom of having no Property in Goods, which indeed introduced a levelling State among them, so as no Man was either rich or Poor, prevail'd no farther than in *Jerusalem* itself; nor even continu'd long there. For we find, that 26 Years after the Death of our Saviour, Property was again distinguish'd; and that no Man who had any thing of his own was allow'd a Support out of the Common-stock; which in this, and the other Churches, arising from the Oblations, was applied to the Use of the Ministers of the Church, and of the Poor. Wherefore St. *Paul* order'd, that the Widows who had Relations, should be maintain'd by them, and not be a Burden upon the Church; that She might the better be able to supply the Necessities of those who were truly Widows (*d*), and destitute; that is to say, both Widows and Objects of Charity.

(*b*) Scire enim debetis (*saith St.* Cyprian) ac pro certo credere, occasum seculi, atq; ante Christi tempus appropinquasse, *Ep.* 58. *ad Thibart.* Lanctantius adds, *That all those who had made Computations of the Time, grounded on Scriptures, and prophane History, declar'd that the World could not last longer than* 200 *Years.* Omnis expectatio non amplius quam ducentorum videtur annorum, *Cap.* 25. *lib.* 7. *Instit. Divin.*

(*c*) Præterit enim figura hujus mundi, 1 *Cor.* 7.

(*d*) Si quis fidelis habet viduas, subministret illis, & non gravetur Ecclesia ut iis, quæ vere viduæ sunt, sufficiat, 1 *Tim.* 5.

This Explanation is drawn from the same Chapter of St. Paul, *which saith,* Quæ vere vidua est, & desolata.

And

And on the firſt Day of the Week, call'd *The Lord's-Day*, the Faithful met together, and every one made an Offering of what he had ſet apart out of his Week's Gains, for the Publick Neceſſities (*e*).

(*e*) Per unam ſabbati (*ſaith he*) unuſquiſq; veſtrum, apud ſe ſeponat, recondens, quod ei bene placuerit, 1 *Cor. cap. ult.*

CHAP. III.

THE Charge which JESUS CHRIST had committed to *Judas*, was, after our SAVIOUR'S Aſcenſion, exercis'd by the Apoſtles themſelves, *but* for a very ſhort Time only. They ſoon grew ſenſible, they ſhould want Leaſure for this, and the other Duty of preaching the Goſpel (*a*), from the Murmurings and Diſorders among the Faithful about the Manner of Diſtributions (*b*); in which great Partialities were pretended by ſuch as thought themſelves had too little, or that others had too much; an Evil incident to all Times, upon the ſame Occaſions.

Reſerving therefore to themſelves the more important Charge of preaching and teaching (*c*) the Goſpel, they committed the Care of their Temporals to other Miniſters (*d*). Which indeed is the Reverſe of what is practiſed in our Days: Wherein the greateſt

(*a*) Dixerunt, non eſt æquum nos derelinquere verbum Dei, & miniſtrare menſis, *Act.* 6.

(*b*) Factum eſt murmur Græcorum adverſus Hebræos eo quod deſpicerentur in miniſterio quotidiano viduæ eorum. *Ibid.*

(*c*) Nos verò orationi, & miniſterio verbi inſtantes erimus. *Ibid.*

(*d*) Conſiderate ergo, viros ex vobis boni teſtimonii ſeptem, plenos Spiritu Sancto, quos conſtituamus ſuper hoc opus. *Ibid.*

Prelates apply themſelves to the ſole Government and Care of their Temporals, leaving the other Part of their Function of teaching the Word of GOD as a leſſer Care to the Monks, or Prieſts of the loweſt Order in the Church.

Theſe new Miniſters inſtituted by the Apoſtles for the Management of their Temporal Affairs, were * ſix in Number, choſen by the whole Body of the Faithful, and call'd Deacons: And wherever the Apoſtles founded any Churches, they there eſtabliſh'd Miniſters under that Title, and uſed the ſame Form and Solemnity in their Ordination, as in that of Biſhops, Prieſts, and other Miniſters of the Church, with a Preparation of Faſting and Prayer before they proceeded to take the Votes of the Faithful (*e*) upon Elections.

* See in *Italian*, in *French Sept.*

And this Order, of admitting none to any Eccleſiaſtical Function, but by Election of all the Faithful in a General Aſſembly, was inviolably obſerv'd, and ſo continued for about 200 Years: The Miniſters of the Church, and the Poor ſubſiſting all that while out of the Common-Stock, which had no other Fund than the Offerings of the Faithful at their Devotions: But they were ſo abundant, that the Charity of thoſe Times had no other Bounds, than what every one could ſpare from his Neceſſities.

So that when the Abilities of one City were more than ſufficient to ſupply the Neceſſities of its own Church, Collections were there made alſo for other Churches that were Poor: Thus we find St. *James*, St. *Peter*, and St. *John*, when they receiv'd St. *Paul* and St. *Barnabas* as Companions in the Evangelick Miniſtry, recommended to them a Gathering for

(*e*) Hos ſtatuerunt ante conſpectum Apoſtolorum, & orantes impoſuerunt eis manus. *Ibid.*

the

the poor Church of *Hierusalem* (*f*): St. *Paul* himself telling us, he went through the Churches of *Macedonia*, *Achaia* (*g*), *Galatia*, and *Corinth* (*h*), to sollicit their Charity: And this was observ'd even after the Death of the Apostles.

At *Rome*, where the greatest Wealth abounded, the Offerings indeed were so large, that about the Year 150, they serv'd not only to maintain the Clergy and the poor Christians of the City, but to contribute largely to the neighbouring, and more remote Churches, as well as to the Relief of great Numbers of Christian Captives in the several Provinces, and of such as were condemn'd to the Mines.

A Remarkable Instance of these large Contributions, was that of *Marcion*, about the Year 170, who made an Offering of 500 Drachmas of Gold at one Time, in the Church of *Rome*. But because he held certain unsound Doctrines in Matters of Faith, she expell'd him out of her Congregations, and return'd him all his Money, believing she should have been polluted, in keeping the Money of a Heretick.

Afterwards the vast Increase of her Wealth, from the Year 220 began to be look'd upon with an envious Eye, even by the Emperors themselves, and gave occasion to *Decius* the Emperor, to seize the Person of St. *Lawrence* a *Roman* Deacon, in hopes to have made him-

(*f*) Discipuli prout quisq; habebat, proposuerunt singuli in ministerium mittere habitantibus in Judæa fratribus, quod & fecerunt, mittentes ad seniores, per manus Barnabæ, & Sauli, *Act.* 11.

(*g*) Probaverunt Macedonia & Achaia collationem aliquam facere in pauperes sanctorum qui sunt in Jerusalem. - - - - - Cum consumnavero, & assignavero eis fructum hunc per vos proficiscar in Hispaniam, *Rom.* 15

(*h*) De collectis autem quæ fiunt in sanctos, sicut ordinavi Ecclesiis Galatiæ, ita & vos facite, *Cap. ult.* 1 *Cor.*

self Master of the immense Treasure of the Church (1), which he imagin'd to have been vastly encreas'd, and laid up *there*; but was disappointed by the Foresight of the holy Man, who fearing the Avarice of the Tyrant, and the Persecution that was then imminent, distributed it all at once, as had been usual when the Church was threatned with the like Calamities.

In Effect most of the Persecutions which It suffer'd from the Death of the Emperor *Commodus*, arose from the same Cause; for when the Princes, or their Captains of the Guards wanted Money, they found no shorter Expedient for raising it, than by seizing the Estates of the Christian Church.

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(1) St. *Prudentius* introduceth an Officer of *Decius*, thus speaking to St. *Lawrence*: *Quod Cæsaris scis, Cæsari da, nempe justum postulo; ni fallor, haud ullam tuus signat Deus pecuniam. Viz.* Give to Cæsar what thou knowest to be his. I ask what is just, for if I mistake not, thy GOD coins no Money. *In lib. de Coronis.*

CHAP. IV.

AS the Churches became rich, the Clergy became so much more at Ease, that some of them, not contented with a Subsistence in Common, began to affect living separate in Houses of their own, and to have each their Allowance paid in Money daily, or monthly, or for a longer Time; a Method which however it fell beneath the Primitive Perfection, was yet tolerated by their Superiors.

But the Disorders ended not here, for the Bishops ceasing to make the usual Distribution to the Poor, reserved them to their own Use. Thus enrich'd with

with the publick Spoils of the Church, and giving themſelves up to all the Methods of encreaſing them, even to Uſury itſelf, they quite abandon'd the Doctrine of CHRIST.

And St. *Cyprian* having lamented this *to be the* Condition of Affairs in his Time (*a*), concludes, That GOD permitted this great Perſecution under the Reign of *Decius*, to purge his Church from Corruption: It having always been the Divine Method to reform, either by the gentle Remedies of lawful Magiſtrates, or when the Corruptions have ſpread too far, by the Scourge of Perſecution.

But tho' the Church were now poſſeſs'd of ſo much Wealth, She had not yet attain'd to any real Eſtates, or Goods immoveable; both becauſe their firm expectation of the End of all things ſo near approaching, had leſſen'd their Taſte, and made them regardleſs of the things of the World, which they look'd upon both as tranſient, and encumbring in their Flight to Heaven; and that alſo, by the *Roman* Laws, no Perſons were permitted to give or bequeath by Will real Eſtates to any College, Society, or Corporation (*b*); nor theſe to accept them without the Approbation of the Senate, or the Prince.

(*a*) Epiſcopi plurimi, quos & hortamento eſſe oportet ceteris & exemplo, divina procuratione contempta, Procuratores rerum ſecularium fieri, derelicta Cathedra, Plebe deſerta, per alienas Provincias oberrantes, negotiationis quæſtuoſæ nundinas aucupari de Lapſis.

(*b*) Collegium ſi nullo ſpeciali privilegio ſubnixum ſit, hæriditatem capere non poſſe dubium non eſt. Lege 8 *Cod. de hæredit. inſtituendis.*

This Law was made by Diocleſian *and* Maximian. *Anno Domini*, 290.

And

And of this no doubt is to be made, however there are some Letters extant which go under the Names of the first Popes, which give a Reason why the Apostles sold their Possessions in *Judea*, saying, It was from the Foresight the Apostles had, That the Christian Church was not to remain in *Judea*, but to remove among the *Gentiles*: As if the Reason were not expressly set down in these Words of Christ to his Church: *Fear not little flock, sell all that you have, and give it to the Poor*, Luke 12. as if *Jerusalem* after it was destroy'd, had not great Numbers of Christians in it again, when it was rebuilt; or that no City among the *Gentiles* where the Christians had any Possessions, had ever been destroy'd.

But without losing time to refute so plain a Falsity, It is a Point out of Dispute, That these Letters were forged and contrived about the Year 800, by those who preferr'd Riches and Luxury (an Example too much observ'd in those Days) to the Apostolick Simplicity, and Moderation, instituted and commanded by Jesus Christ.

Indeed during the Confusions, which continued a long time in the Empire after the Imprisonment of *Valerian*, and the loose Observance of the Laws in those times, especially in *Africk*, *France* and *Italy*, some People's Zeal took hold of that Opportunity to bestow also real or immoveable Estates on the Church, which were all confiscated in the Year 302 by the Emperors *Diocletian*, and *Maximian*, except in *France*, where *Constantius Chlorus*, who govern'd there, through an Effect of his Goodness, hinder'd their Decree from being executed.

But these Princes having renounc'd the Empire, *Maxentius* 8 Years after restor'd to the *Roman* Church all its Possessions, a little after that she found the same

ſame Favour from *Conſtantine* (*c*) and *Licinus*, having granted the free Exerciſe of Religion to the Chriſtians, and allow'd Congregations of the Clergy, which in *Greek* were call'd *Churches*; made them alſo capable of acquiring fix'd Revenues, or immoveable Eſtates, throughout the whole Empire, either by Will or Donation; with an Exemption from all Services that were perſonal, that they might have more Leaſure to attend the Duties of Religion.

(*c*) *Lib.* 4. *Con. de Epiſcopis & Eccleſiis.* Habeat unuſquiſq; licentiam ſanctiſſimæ Catholicæ [nempe fidei, religionis, aut Eccleſiæ, *a way of ſpeaking uſual in* Euſebius] venerabiliq; Concilio, decedens, bonorum quod optavit, relinquere. Non ſint Caſſa Judicia: Nil eſt quod magis hominibus debetur quam ut ſupremæ voluntatis, poſtquam aliud velle jam non poſunt liber ſit ſtilus, & licens quod iterum non redit arbitrium. *Anno* 321.

CHAP. V.

IT was not till long after this, that the Cuſtom prevail'd of giving or bequeathing Eſtates to particular Purpoſes, ſuch as of Buildings of Piety, providing Marriage Portions, maintaining Orphans, *&c.* or yet of giving with a Condition annex'd, of ſaying ſo many Maſſes, or other Divine Services. But before they gave or bequeath'd abſolutely, and the Gift or Legacy was thrown into the Common-ſtock, which was the Fund appointed to defray all pious Works. So true it is, That the ancient Eſtates of the Church were not dedicated to any particular Uſe of Piety; but it is not therefore true, that they may be laid out at the Pleaſure of thoſe with whom they are entruſted; becauſe they are

are really given to a general Design of Piety and charitable Works.

The Exemptions of the Clergy from the publick Contributions (*a*), must be own'd to have been one occasion of the great Encrease of Wealth to the Church: Which was every where inviolably observed, equal to the Satisfaction both of the Princes and People; and which turn'd in no sort to the Publick Prejudice.

For seeing the Goods of the Church belong properly to People of the lowest Condition, those only were exempted, who had nothing of their own, and those only contributed who were able: A Method which carry'd the greatest Equity in it; seeing that to exempt him who hath not a Competency for Life, is not oppressing others.

But we are not thence to infer, That it were as reasonable for Princes to continue the same Bounties to the Church, now that It is become so rich, that It possesseth a fourth Part of all Estates; which is doubtless more than is left for all the rest of the People (1): And these Estates being no longer laid out upon the Poor, To exempt the Clergy would be a direct Contradiction to the Practice of all good Princes, and a means to make the Burdens which the Rich ought to bear, fall upon the Poor (2):

(*a*) *Lib.* 2. *Theod. de Episc. & Eclesiis*, Qui divino cultui ministeria religionis impendunt, id est, qui Clerici appellantur, ab omnibus omnino muneribus excusentur, ne sacrilego Livore quorundam a divinis obsequiis avocentur. *Constant. mag. l.* 9. *Cod. Theod.* eodem titulo.

(1) Seeing the Clergy make up but a very small Part.

(2) *Phil. de Comines*, whose Piety was as great as his Experience in Affairs, expressly blames the Bounty of *Lewis* XI. to the Church. Saying, He gave much to the Church, but he had better have given less; for he took from the Poor, to give to those who had no need. And in another Place, He gave goodly Lands to the Church, but this Gift was made void; for the Clergy had too much. *Cap. ult. Lib.* 5, & 7. *Lib.* 6. of his Memoirs.

So

So that the Princes of our Times want not the Piety of their Predeceſſors, yet Circumſtances make the Caſe very different; for the Church would now alſo be exempted if ſhe were poor, and ſhe never would have been exempted, had ſhe been rich.

CHAP. VI.

THE ſame exceeding Devotion in Princes and People, which produced the vaſt Encreaſe of Wealth to the Church, grew at laſt to excite an extream Thirſt in her Miniſters to improve it; from which even thoſe of the cleareſt Intentions among them were not wholly exempt.

For ſince the Diſtribution of theſe Goods turn'd to the Glory of GOD, and the publick Good, they concluded that the more the Church had to beſtow, the more thoſe Ends would be anſwer'd: Thus in the View to ſo great a Merit, they ſet themſelves with all their Skill and Induſtry about ſo pleaſing a Task, without confining themſelves to the Lawfulneſs or Juſtice of the Methods; but if the Church were enrich'd, by whatſoever means, they thought they made a pleaſing Sacrifice to GOD.

And certainly from theſe indiſcreet Zealots, and the want of a due mixture of Diſcretion, have flow'd innumerable and incurable Miſchiefs: For they imagining every thing juſtifiable (1), that is done with a View to Religion, by acting both againſt that, and even of Humanity itſelf, have often ſet the World in dreadful Combuſtions.

(1) Devitantes hoc, nequis nos vituperet providemus bona, non ſolum coram Deo, ſed etiam coram hominibus, 2 *Corinth* 8.

Thus

Thus it happen'd when first the Church was allow'd to acquire real Estates; some religious Persons entertaining an Opinion, That it was a Service to GOD, to disinherit the Children and Heirs of Families, in order to give their Estates to the Church, omitted no Artifice to persuade Widows, Maids, and other easy People, ready to receive any Impressions to deprive their own Families, and make the Church their Heirs (2).

And this Distemper grew to such a height, that the Prince was oblig'd to provide against it, by an Ordinance made in the Year 370. which in truth did not put the Churches absolutely into an Incapacity of encreasing their Estates, but forbad Churchmen only to frequent the Houses of Widows and Orphans, or to receive any Gifts by Will or Donation from Women immediately, or by any 3d Hand (3).

Which Ordinance St. *Jerom* acknowledges to have been a good Step towards the Remedy of a Corruption, which had taken too deep Root among the Clergy (4), namely an immoderate craving after temporal Riches.

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(2) *Charlemaign* made a Law to forbid the Churches to receive any Gifts, which disinherit Children and Kindred.

(3) Ecclesiastici aut ex Ecclesiasticis Viduarum ac Pupillorum domus non adeant, sed publicis exterminentur judiciis, si eos Affines earum vel propinqui putaverint deferendos. Censemus etiam ut memorati nihil de ejus mulieris, cui se privatim sub prætextu religonis adjunxerint, liberalitate quacunq; vel extremo judicio possint adipisci, & omne in tantum inefficax sit, quod alicui horum ab his fuerit derelictum, ut nec per subjectam personam valeant aliquid vel donatione vel testamento recipere. *Lege* 20. *Cod. Theod. de Episc. & Eccles.*

(4) Audio in senes, & anus absq; liberis quorundam turpe servitium. Ipsi apponunt matulam, obsident lectum, purulentiam stomachi & phlegmata pulmonis manu propria suscipiunt. *In Epist. ad Eustoch.*

Illæ quæ sacerdotes suo viderint indigere præsidio eriguntur ad superbiam, & quia maritorum expertæ viduitatis præferunt libertatem. *In one of his Ep.*

Yet

Yet this was not found ſufficient, without another Ordinance, made a few Years after, That Widows who devoted themſelves to the Church, ſhould neither give nor leave by Will any immoveable or real Eſtates, or Moveables of great Value (*a*). Of which it is diſcours'd more at large elſewhere.

Nor were theſe exceſſive acquiſitions pleaſing to St. *Auguſtine*, who liv'd in thoſe times, and declar'd himſelf freely upon this Head, that he thought it more reaſonable that Inheritances ſhould be left to the next of Kin than to the Church (5).

Which Opinion he confirm'd by refuſing Gifts that were left to his own Church. He likewiſe declar'd, That a due Miniſtry in the Church did not conſiſt in diſtributing much, but in being well applied. He blam'd a Method of encreaſing the Eſtates of the Church by making Purchaſes of real Eſtates with the overplus of its annual Rents. He never would ſuffer this Abuſe in his own Church, declaring againſt it in his Sermons, and that he had rather live on the Offerings and Collections that were made in the primitive times of the Church, than to be charg'd with the care of an Eſtate, which would interrupt the Leiſure that was neceſſary to the right diſcharging the principal Duty of a Biſhop: Adding, that he was ready to renounce all

(a) Ipſa tantum prædiorum ſuorum reditus conſequatur, de quibus ſervandi, abalienandi, donandi, diſtrahendi, relinquendi, vel quod ſupereſt, vel cum in fata concedit, & libera ei voluntas eſt, integra ſit poteſtas. Nihil de monilibus, & ſupellectile, nihil de auro, argento, cæteriſq; claræ domus inſignibus ſub religionis defenſione conſumat: Sed univerſa integra in liberos, proximos vel in quoſcunque alios arbitrii ſui exiſtimatione tranſcribat. Ac ſi quando diem obierit, nullam Eccleſiam, nullum Clericum, nullum Pauperem, ſcribat hæredes. *L.* 27. *Cod. Theod. Anno* 390.

(5) *Poſſid. in vita Auguſt. cap.* 24.

Poſſeſſions

Possessions in the World whatsoever, provided a Maintenance were alloted to the Servants and Ministers of GOD, according to the old Testament, *(b)* either in Tythes or in other Alms: so as they might not be diverted from their Duty, by the Cares inseperable from temporal Concerns.

Yet neither the excellent Exhortations of the Fathers, nor the Laws of Princes were of Force to set any Bounds to the growing Wealth of the Church, but that it exceeded all Measure.

The ancient manner indeed of administring and dispensing these Estates, was still kept up, and so continued until the Year 420. without any remarkable Alteration. All the Alms, and Revenues arising from real Estates, were yet in common, and under the Care of Deacons, who had for their Assistance Sub-deacons, and other Stewards employ'd in providing for the Maintenance of the Clergy and the Poor. The College of Priests, and the Bishops chiefly were the Supervisors; and an Account of all Receipts and Disbursements was kept. So that the Bishop order'd all the Distributions, the Deacons executed his Orders, and all the Clergy were maintain'd out of the Revenues of the Church, tho' they were not all in Functions.

St *John Chrisostome* maketh mention, That in those times the Church of *Antioch* fed more than 3000 Mouths. It is also certain, That the Church of *Jerusalem* defray'd the Expences of an infinite Number of People, who resorted thither from all Parts.

(b) Omnes decimæ terræ sive de frugibus, sive de pomis arborum Domini sunt. *Levit. ult.*

Primitias ciborum nostrorum, & poma omnis ligni, vindemiæ quoq; & olei, afferemus sacerdotibus. Ipsi Levitæ decimas, accipient operum nostrorum. 2 *Esdr.* 10.

These Tenths and First-fruits as being of the *Jewish* Institution, were abolish'd by the new Law.

And

And we find in History, that *Atticus* Bishop of *Constantinople*, assisted the Church of *Nice* in *Bithynia*, on occasion of a Concourse of poor People to that City, wherein were numbred ten thousand in one Day.

CHAP. VII.

BUT after *France*, *Spain* and *Africk* were erected into two distinct Kingdoms from the Empire, the Posterity of *Theodosius* extinct, and *Italy*, by the successive Inundations of divers barbarous Nations, made subject, at last, to the Power of the *Goths*, and the Eastern and Western Empires torn asunder from each other; the Government of the Churches also took another Form. The Eastern Church kept still the establish'd Usage of living in Common: But in the Western, the Bishops, from being Supervisors and Administrators of the Revenues, began to use them as if they were their own; and to assume a sort of absolute Power in their Disposition. Hence follow'd great Confusions in the Application of these Estates, to the great Detriment of the Fabricks, which fell to Ruin; and of the Poor, who were left destitute and unprovided for.

It was therefore order'd (*a*) in the Western Church about the Year 470, That a Division should be

(*a*) Pope *Gelasius* in Canon *quatuor*, 27, 12. q. 2. which is in the Year 494, sheweth sufficiently that this Usage was establish'd some time before.

Quatuor autem tam de reditu, quam de oblatione fidelium, prout cujuslibet Ecclesiæ facultas admittit, sicut dudum rationabiliter est decretum, convenit fieri portiones, quarum sit una Pontificis, altera Clericorum, tertia pauperum, quarta fabricis applicanda. *Vide Can. vobis* 23. *eadem quæst.*

made into Four Parts: The first was to go to the Bishop, the second to the rest of the Clergy, the third to the Fabrick of the Church, in which, besides that properly so called, was also comprehended the Habitation of the Bishop, of the other Clergy, of the Sick, and of the Widows: And the Fourth Part went to the Poor *: Which in most Churches, according to St. *Gregory*, included only the Poor of the Place: For Hospitality was incumbent only on the Bishop, who was oblig'd, out of his own Share, to lodge all the stranger Clergy, and to defray the Expences of the Poor which came from abroad.

Yet it is not to be suppos'd, that this Division was made into four Arithmetical and equal Parts, but only Proportional: For the Number of Clergy in some Churches requir'd a larger Share than the Poor; whereas the Contrary fell out in other Churches, where the Poor were more numerous than the Clergy. And as in great Cities the Expence of the Fabrick was greater than in the lesser, every Church, which agreed to this Division into Four Parts, settled it in a different Proportion, as Circumstances requir'd.

I know that some have attributed this Division to Pope *Silvester*, who liv'd 150 Years before, grounding their Opinion on some Writings which have been forg'd since, with little Honour to those Times, which lay not then under so corrupt a Character.

In the *Theodosian* Code we find a Law of *Constantius* and *Julian*, bearing Date in the Year 359, which

* Whereas before, the first Part was for the Poor, *viz.* when all was in common among them.

exempts

exempts the trading Clergy from paying Duties (*b*), becauſe all they gain'd went to the Poor. So far they were from dividing the Revenues of the Church among themſelves, that even their Gains they threw into the Common-ſtock. But about the Year of our LORD 500, however the Revenues had been divided into Four Parts, yet the Funds out of which they aroſe, whether Immoveables, Oblations or Alms, were brought under no Diviſion themſelves, but only the growing Rents continu'd under the Direction of the Deacons and Sub-deacons, jointly.

A Recapitulation of this Matter ſeem'd the more requiſite here, becauſe the following Ages will preſent us with a Form of Government ſo intirely different from what has been deſcrib'd.

We have already ſet forth the Method inſtituted by the Apoſtles, for electing Miniſters in the Church, *viz.* That the Biſhops, Prieſts, and other Miniſters of the Word of GOD, as alſo the Deacons, who had the Adminiſtration of the Temporals, ſhould be elected by the whole Body of the Faithful, and then ordain'd by the Biſhop, by Impoſition of Hands; which continued without Alteration. The Biſhop was elected by the People, and ordain'd by the Metropolitan *, in the Preſence of all the Biſhops of the ſame Province, or at leaſt, with the Conſent in

(*b*) *L.* 8. *Cod. Theod. de Epiſc. & Eccleſiis Anno* 345. Juxta ſanctionem quam dudum meruiſſe perhibemini; & vos & mancipia veſtra nullus novis collationibus obligavit, ſed vacatione gaudebitis.

Præterea neq; hoſpites ſuſcipietis, & ſiqui de vobis alimoniæ cauſa negotiationem exercere volunt, immunitate potientur.

St. *Jerom* exclaims againſt theſe Privileges, *Negotiatorem Clericum*, ſaith he, *& ex Inope divitem, ex ignobili gloriſum, quaſi quandam peſtem fuge ---- Cui nundinæ, fora placent, & plateæ, ac medicorum tabernæ.* Ep. 2. ad Nepotianum.

* Vide Appendicem ad Capitul. *pag.* 1372. *cap.* 4.

Writing of those who could not be present. Or if any Accident hinder'd the Metropolitan from attending, the Ordination was perform'd by three of the neighbouring Bishops, with the Consent of him and of the other absent Bishops. And afterwards, when to improve this Form of Government, several Provinces were made subject to one Primate, his Consent also was requir'd to the Ordination.

The Priests, Deacons and other Clergy were also presented by the People, and ordain'd by the Bishop; or else nominated by the Bishop, and with the Consent of the People ordain'd by him. No Person that was unknown was admitted, nor did the Bishop ever ordain any, but such as were approv'd, or indeed propos'd by the People.

Whose Concurrence was thought so necessary, that the Pope, St. *Leo*, proves at large the Invalidity of a Bishop's Ordination without it (*c*). In This all the Fathers of the Church in those times agree. And *Constance* being chosen Bishop of *Milan* by the Clergy, St. *Gregory* thought he could not be consecrated without the Consent of the Inhabitants, who being at that time retir'd to *Genoa*, to avoid the Ravages of the barbarous Nations, a Message was first sent to them at his Instance, to know their Pleasure. A Thing which may justly be recommended to the Observation of this Age, where we are taught that Elections, wherein the People should pretend to have any Share, would be unlawful and

(*c*) Cum ergo de summi sacerdotis electione tractabitur, ille omnibus præponatur quem Cleri plebisq; consentus concorditer postulent, ita ut si in aliam forte Personam partium se vota divisirint, metropolitani Judicio is alteri præferatur qui majoribus & studiis juvatur & meritis: Tantum ut nullus invitis, & non petentibus ordinetur, ne Civitas Episcopum non optatum aut contemnat, aut oderit, & fiat minus religiosa quam convenit cui non licuerit habere quem voluit.

Epist. 12. *ad Anastasium Thessalonicensem, cap.* 5.

invalid:

invalid: So chang'd, and ſo inverted are Cuſtoms, as to make Good and Evil change their Names, calling that lawful which was formerly reputed deteſtable and impious; and that unjuſt, which had then the Reputation of Sanctity.

Sometimes a Biſhop who was ſuperannuated, nam'd his Succeſſor; as St. *Auguſtine* nam'd *Eradius*. But neither was this Nomination of any Force without the Approbation of the People. All Theſe are Particulars as neceſſary to be well underſtood, as they are to be remember'd, in Order to confront the Practices of ſucceeding Ages with theſe Primitive Examples.

CHAP. VIII.

A Little Digreſſion will here be neceſſary, to take in one of the moſt memorable Cauſes, and Springs of Wealth to the Church, which happen'd about the Year 500. This was an Inſtitution of Religious Colleges call'd *Monaſteries*.

Monachiſm began in *Ægypt* about the Year 300(1) occaſion'd by the Perſecutions of thoſe who fled thither for Refuge. From whence it paſs'd into *Greece*,

(1) *There were Monks in Ægypt long before, according to* Caſſian. Cum in primordiis fidei pauci quidem, ſed probatiſſimi, Monachorum nomine cenſerentur, qui ſicut a beatæ memoriæ Evangeliſta Marco, qui primus Alexandrinæ urbi Pontifex præfuit, norman ſuſcepêre vivendi, &c. *Lib.* 2. *de Inſtit. Cœnob. cap.* 5.

Ne illa Eccleſia, quæ inter ipſa Evangelii Principia B. Marcum, B. Petri Apoſtoli diſcipulum, in omnibus utiq; doctoris ſui magiſterio conſonantem habuit fundatorem, &c. *Leo mag. Epiſt.* 77. *cap.* 4.

Greece, where St. *Basil* about the Year 370. gave it the Form it has preserv'd ever since in that Country. And about the Year 350, *Athanasius* brought it into *Italy*: But at *Rome*, and in the Parts adjacent, it found few Followers, and little Encouragement, until the Year 500, when St. *Equitius*, and St. *Benedict* gave it a more lasting Form, and made it spread. Yet the Institution of St. *Equitius* fail'd soon, but that of St. *Benedict* extended itself all over *Italy*, and even beyond the Mountains.

In those Days, and for a long Time after, the Monks were no Ecclesiasticks (2), but Laymen, and in Convents, which stood without the Cities; subsisting on their own Labour in Husbandry and other Trades, and on the Oblations of the Faithful; of all which the Abbot had the Management.

But in the Cities they liv'd on their own Hand-labour, and the Share which was allotted them by the Church of that Place. These retain'd their ancient Discipline much longer: And as the Clergy, after they began to share the Goods of the Church among themselves, had lost much of the Reverence

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V. Epist. 10. *ad Episcopes viann. cap.* 6. St. *Antony* was the first, who brought the Monks to live in Common. A Proof, That that Life is not inconsistent with Solitude: Which Point Mr. *D'Ossat* presseth with great strength of Reason, to an Abbot of the Order of *Feüillans*. A Monk, saith he, who attends Mattins, and other Services, enjoin'd, and employs the rest of the Day in Study, or in some other honest way, is solitary enough, and needs no other Desert but his Convent. And the Ancients, in calling a Convent *Cœnobium*, and those in Religious discipline Monks, shew, that Solitude may easily be found in Community and Society.

(2) Alia Monachorum est causa, alia Clericorum, *saith St.* Jerom. *And again*, Clerici pascunt oves, ego pascor. *Epist. ad Helicd.*

But tho' the Monastick Life were very different from the Ecclesiastick, it was however a Step to Orders. *Sic vive*, saith he to a Monk, *ut Clericus esse mereari*. Epist. ad Rusticum.

they

they had among the People, whose Devotion by that Means was extinguish'd; few continu'd their Bounties to the Church, and there had been an End to all its Acquisitions, if the Monks, by continuing to live in Common, and exercising Works of Charity, had not reviv'd and turn'd all the Stream of the People's Devotion on themselves. Thus they became, in time, very powerful in Inheritances, and Possessions of all Kinds: Every one finding a stronger Invitation to his Charity, as he saw It was then employ'd in maintaining great Numbers of Monks, in educating Youth, and other Works of Piety and Hospitality (3). The Abbot *Trithemius* reckons the Number of Monasteries of *Benedictines* were 15000, besides the lesser Convents. The Monks chose their own Abbot, who govern'd in Spirituals, and had the Disposal of all the Oblations, as well as of all they gain'd by Labour: Afterwards, also He had the Management of the Revenues arising from their immoveable Estates.

(3) *Mezeray* saith in the Life of *Phil. Augustus*, That the Monasteries of the *Benedictines* were as Inns for Receipt of Gentlemen and other Travellers *gratis*, and Schools to teach their Children.

Another thing contributed much to the Encrease of Monachism, which was, the Means they had found to succeed to their Fathers Estates, which at their Death they left to their Convent. *Jam eo tempore fervor Monasticæ Religionis tepuerat. Jam unusquisq; in bonis Parentum sucrum hæres fieri quærebat: Unde quidam eorum, quid sibi acquisiverant, in servitium fratrum, & communem utilitatem Loci publicè contradebant.* Chronicon. S. Benigni Divion. Anno 789. Tom. 1. Spicelegii Acher. pag. 402, & 403.

CHAP. IX.

BUT after the Year 500, the Bishops being become the absolute Dispencers of the Fourth Part of the Goods of the Church, they began to employ more of their Care on their Temporal Affairs, and to make Parties in the Cities: So that Elections were no longer carry'd on with a View to the Service of GOD, but manag'd by Faction and Intrigues, which often proceeded to open Violence. This gave the first Alarm to Princes, who had hitherto little concern'd themselves, in the Choice of the Ministry; but when the Holy-men of those times began to declare, That GOD had plac'd the Church under their Protection, and that they were answerable by that Divine Commission, to see that the Affairs of the Church should be administer'd under regular and legal Forms of its own. This open'd the Eyes of Princes, and made them capable of discerning how much the Interests of ambitious Clergymen, and the seditious Cabals form'd on these Occasions to obtain the Dignities of the Church, endanger'd the publick Peace, and the Interest of the Civil Government.

Mov'd therefore, partly by Religious Considerations, and partly by Reasons of State, they now began not to suffer the Clergy and the People to determine Elections by themselves, and according to their own Passions. For seeing Men now no longer avoided and fled from Bishopricks, but even made Interest for them with all the Courtship and skilful Solicitations they could use; so great a Change open'd a Way to Factions, and consequently to Seditions, and sometimes Bloodshed at the Instigation of the contending Parties.

Some-

Sometimes the Inconveniencies were no leſs by Elections falling on People diſaffected to the Government, and ſuch as entertain'd ſecret Correſpondence with the Enemies of the State, which, during the Weſtern Confuſions, were never inconſiderable: Or otherways, by Elections falling on ſuch who afterwards attain'd to great Popularity, which they apply'd to uſurp the Power of the Magiſtrates, and then to incite the People to ſupport their Innovations.

Theſe Diſtempers produc'd an Edict, that no Perſon elected ſhould be conſecrated without the Approbation of the Prince or Magiſtrate, reſerving to themſelves the Right of confirming the great Biſhopricks, ſuch as thoſe in *Italy* of *Rome*, *Ravenna*, and *Milan*, and leaving the Care of the others to their Miniſters.

But in thoſe times, as more Regard was had to the anſwering the true End of good Government in the Church, than to any Appearances, If there happen'd in a City ſome one of that eminent Merit, that was equally the Inclination both of Prince and People, upon a Vacancy he was conſecrated forthwith, without other Formality.

Sometimes Accidents of Wars or Plagues might haſten the Conſecration of a Biſhop, before the Princes Confirmation were obtain'd (*a*): As it happen'd in the Caſe of *Pelagius* II. *Rome* being then beſieg'd by the *Lombards*. But after the Siege was rais'd, that Pope ſent St. *Gregory*, who was then Deacon, and afterwards his Succeſſor, to excuſe it to the Emperor, and to beg he would confirm what Neceſſity had oblig'd to be done.

(*a*) Poſt Benedictum Papam Pelagius Romanæ Eccleſiæ Pontifex ablq; Juſſione Principis ordinatus eſt: Eo quod Longobardi Romam per Circuitum obſiderent; nec poſſet quiſquam a Roma egredi. *Warnefrid de geſtis Longobard. Lib.* 3. *cap.* 20.

In

In this Manner, that is with the Imperial Sanction, the Popes and Bishops continu'd to be chosen in *Italy* until the Year 750. But in *France*, and other Countries beyond the Mountains, the Royal Authority, and even that of the Mayors of the Palace, appear'd more absolute; for the People, as soon as those Princes concern'd themselves in Elections, desisted intirely and withdrew themselves from them. Good Men acquiesc'd, in Confidence that their Princes would take all the Care that was necessary in that Matter; and ill Men despair'd to bring about their Designs: So that the Kings of *France* had the sole Collation of all the Bishopricks throughout their Kingdom.

Through all the History of *Gregory* of *Tours*, from the time of *Clouis* the first Christian King of *France*, until the Year 590, we find no Instance of any one Bishop being made in any other Manner than by the Nomination or Consent of the King (*b*). And St. *Gregory* I. who was made Pope in that Year, writing to the Kings of *France* on divers Occasions, laments that Bishopricks were bestow'd on Men not sufficient for that Charge; beseeching them to choose Men of Probity and Capacity, but without any Objection to the King's Right of Nomination, unless it were want of Merit.

It

(*b*) Interempto Rustico Caturoci urbis Episcopo, consensus Regis & Civium pari sententia in Episcopatum Desiderii aspiravit. Nam licet suggestio Civium ad Præsules & Principes jam præcesserit, Rex tamen pro hoc amantissima & valde ambienda præcepta dedit, in quibus perspicuè agnoscitur, vel quamobrem hunc Rex diligeret, vel quam de eo æstimationem haberet. Tale nimirum de illo Rex civibus & Episcopis, cunctoq; populo testimonium dedit, ut jure plebium testimonia regia oracula præcellerent, ac prævenirent. *In vita S. Desiderii Episc. Caturc. cap.* 8. *tom.* 1. *Biblict. MS.* Labbei, *p.* 703.

Whence it appeareth, The People chose, but that the Election

It was easy for those Bishops when once they were made without the Authority of the People, to exclude the People also from the Choice of Priests, Deacons, or other Ecclesiastical Ministers, and to transfer that Right to the Prince alone. Some Part of the People having wholly withdrawn themselves from Ecclesiastical Congregations, to attend their domestick Affairs, others to avoid popular Factions, others again, upon finding themselves contemptuously treated by the Bishop, whose Power was grown to an inconvenient Size, by his Wealth, and the Interest he had in his Prince, of whom he held his Bishoprick by Nomination or Confirmation. And sometimes the Prince would name the Persons to be ordain'd, or would commit that Care to the Bishop, especially when he happen'd to be in his Prince's Confidence. And this often brought him to be farther useful, either in making up Differences among the People, or in decidng difficult Causes referr'd to him by the Prince.

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lection ought to be confirm'd by the Prince. Which is seen in a Letter of *Dagobert*, reported in the Life of St. *Didier*, *viz.*

Juxta Civium petitionem, nostram quoq; concordantem in omnibus voluntatem decernimus, ac jubemus ut adjuvante & clamante laudem ipsius Clero, vel Populo, vir illustris, & verus Dei cultor Desiderius Pontifex in urbe Caturci debeat consecrari, & nostra civiumq; voluntas, quod decrevit in omnibus, in Dei nomine perficiatur, & pontificali benedictione sublimatus, pro nobis, & pro universis ordinibus Ecclesiæ debeat exorare, & acceptibiles Deo hostias studeat offerre. ---- Qua de re, præsenti authoritate decernimus, ut dictus Desiderius Episcopatum in Caturcensi urbe præsentialiter suscipiat. Et ut hæc deliberatio voluntatis nostræ firmior habeatur, manus nostræ præscriptione subter eam decrevimus roborare.

1 *Lib.* 4. *Epist* 53. *ad Childebert.* & *tom.* 1. *Concil. Gall. Epist.* 5. *ad Brunichildem. Lib.* 7. *Ep.* 5. & *tom.* 1. *Concil. Gall. Epist.* 22. *ad Brunich. Lib.* 7. *Ep.* 13. & *Tom.* 1. *Conc. Gall. Epist.* 27. *ad Theodoric.* & *Theodebert. Lib.* 7. *epist.* 114. & *tom.* 1. *Concil. Gall. epist.* 28.

For

For the Respect shew'd to Religion in those Days having rais'd the Bishops to a Credit, which was not ordinarily afforded to Magistrates, engag'd them more in these secular Functions than in teaching the Doctrine of Christ, in which ignorant Men had thought, at first, consisted their principal Duty. So that to be a worldly prudential Man was a better Qualification for a Bishop, than to be a good Casuist. Which holds good to this Day in that Saying, *That except it be in Places confining on the Infidels, a good Lawyer makes a better Bishop than a good Divine*; which indeed must be allow'd, if the chief Business of a Bishop be to try Causes.

Jesus Christ, when he ordain'd his Apostles, told them, *As my FATHER sent me, so send I you.* By which they understood he sent them to teach. But if now every Man be sufficiently instructed, there is no need of any more Teachers; and they ought to quit an Employment grown useless to the World.

Heretofore the principal Care of a Bishop was to teach, his next was to take Care of the Poor; but as the Administration of the Church Affairs came into the Hands of the Clergy, there grew some Remisness in both Duties, and the *Quadripartite* Division came to be arbitrary.

Where the Bishop and Clergy were Men of Conscience, a reasonable Division was made, but where they happen'd to be interested Men, the Poor wanting Protectors, and the Fabrick of the Church Supervisors, these two Portions were in some Places sunk almost to nothing, and all was divided betwixt the Bishop and the Clergy.

And even in Churches where the Division was made with due Proportion, the Administration of the two Parts which was allotted to the Fabrick and the Poor, remaining still in the Hands of the Clergy,

were

were insensibly diminished, to the Advantage of those who had the Management; which is made more evident by the few Instances that are any where to be found of Fabricks having any particular Revenue, or of any Fund remaining for the Poor, except Hospitals, which are of no ancient Institution.

At first the Share of the Clergy was not divided among them, but left to the Discretion of the Bishop, to dispence according to every one's Merit. But afterwards the Priests took upon them to make the Dividend among themselves, excluding the Bishop from that Care; and when they had set out their own Share, in the Direction of which neither the Bishop, nor any other had any hand, they then sub-divided it among themselves. This gave Beginning to every Man's Property, and thus they ceased to live in Common.

But tho' the Revenues were thus divided, yet all the Stock or Fund remain'd still intire, and undivided, under the Direction of Deacons, and Sub-deacons, who receiv'd the Rents, and assign'd them to the Bishop, and to every Priest, in Proportion to their Shares.

In those times the Church Estates were called *Patrimonies*, which I have thought fit by the way to remark, to obviate any Mistake that this Name might signify any soveraign Dominion, or Jurisdiction belonging to the *Roman* Church or the Pope. The Estate of every Family, descending from its Ancestors, was call'd *a Patrimony*. And the Demeasns or Estate belonging in particular to the Prince, was call'd *Sacrum Patrimonium*, to distinguish it from the Patrimonies of private Men; as we find in many Places of the 12th Book of the Code. For the same reason the Name of Patrimony was given to the Estate of every Church; and we find mention'd

tion'd in the Letters of St. *Gregory*, not only the Patrimonies of the *Roman* Church, but alſo of the Church of *Rimini*, *Milan*, and *Ravenna*.

Churches in Cities, whoſe Inhabitants were but of moderate Subſtance, had no Eſtates left to them out of their own Diſtrict: But thoſe in Imperial Cities, ſuch as *Rome*, *Ravenna*, and *Milan*, where Senators, and Perſons of the firſt Rank inhabited, were endowed with Eſtates in divers Parts of the World. St. *Gregory* mentions the Patrimony of the Church of *Ravenna*, in *Sicily*, and another of the Church of *Milan* in that Kingdom. The *Roman* Church had Patrimonies in *France*, *Africk*, *Sicily*, in the *Cottian Alps*, and in many other Countries. And the ſame St. *Gregory* had a Law-ſuit with the Biſhop of *Ravenna*, for the Patrimonies of the two Churches, which afterwards ended by Agreement.

And to create yet the greater Reſpect for the Eſtates belonging to the Church, it was uſual to annex the Name of ſome favourite Saint, which that Church held in moſt Veneration. So the Eſtate of the Church of *Ravenna* was call'd, The Patrimony of St. *Appollinare*; that of *Milan*, The Patrimony of St. *Ambroſe*. The Eſtates of the *Roman* Church were call'd, The Patrimony of St. *Peter* in *Abruzzo*, the Patrimony of St. *Peter* in *Sicily*; in the ſame manner as we ſay, The Revenues of St. *Mark* at *Venice*.

Where the Patrimonies of the Prince were not aſſign'd to the Uſe of the Army, a Governor or Intendant (1) was plac'd, who had Juriſdiction in all Cauſes which concern'd thoſe Eſtates: Some of the

(1) This Intendant was ſtil'd, *Comes rerum Privitarum*, to diſtinguiſh him from the *Comes ſacri Patrimonii*: Both are ſpoken of in the firſt Book of the Code: The firſt in the *Title* 33. the ſecond in the *Title* 34.

Roman

Roman Clergy would have uſurp'd the ſame Power, wherever that Church had any, throughout all their Patrimonies, and have been the Judges themſelves, without having any more Recourſe to the Civil Magiſtrate. But St. *Gregory* condemn'd and rebuk'd this Innovation, and forbad the Practice of it under Pain of Excommunication.

The Canon of St. *Ambroſe*, call'd, *Si Tributum* (*c*), is a Teſtimony that the Eſtates of the Church paid Tribute to the Prince. And it is certain, that in the Year 681, *Conſtantine Pogonatus* or *Barbatus*, exempted the *Roman* Church from Tribute, which it paid for the Patrimonies of *Sicily*, and *Calabria*; and *Juſtinian Ritmenus* in the Year 687, remitted the Tribute for the Patrimonies of *Abruzzo* and *Lucania*.

Yet the *Roman* Church drew not ſo great Revenues from its Patrimonies, as ſome have imagin'd; for Hiſtorians ſpeaking of the Confiſcations of *Calabria* and *Sicily* by *Leo Iſaurus*, in the Year 732, acquaint us, That they both yielded but 3 Talents of Silver, and half a Talent of Gold; which (not to dwell on the Diverſity of Opinions concerning the Value of a Talent) make no more than 2500 Crowns of our Money: And the Patrimony of *Sicily*, tho' very large, amounted to no more than 2100 Crowns.

(*c*) Si tributum petit Imperator, non negamus; agri Eccleſiæ ſolvant tributum. Si agros deſiderat Imperator, poteſtatem habet vendicandorum; tollat eos, ſi libitum eſt; Imperatori non dono (*for the Eccleſiaſticks having only the Uſufruct and Stewardſhip, they cannot give what is not their own*) ſed non nego. *Cauſa* 11. *quæſt.* 1. *cap.* 27.

CHAP. X.

IT will not be foreign to our Subject to know the particular State of the Church, during the time that the Goods of it remain'd united in one Common-stock, and under the same Administration, tho' the Revenues arising from thence were divided: But the same Face of things was not likely to continue, considering the Differences which arose betwixt those who had the Administration, and those who were subject to it. So every Minister began to retain all the Offerings made in his own Church, and convert them to his own Use: Whereas before they carried the Offerings to the Bishop, who made a Dividend of them. But as an Acknowledgement of the Bishop's Superiority, every Minister presented him with a 3d Part of these Offerings, and something more, as a Mark of Respect paid to the Episcopal Chair, which was call'd *The Cathedral* (*a*). They also divided the Lands, and assigned to every Man his Share.

But these Changes were not made in all Places, nor all at one Time, where they were made; nor by any publick Edict, but in the Manner wherein all Customs are introduced, obtaining and enlarging themselves insensibly, especially bad ones, which make the swifter Progress, and find less Opposition.

(*a*) Cathedraticum etiam non amplius quam vetusti moris esse constiterit, ab ejus loci Presbytero noveris exigendum. *Gelasius Fabiano Episcopo, anno* 494. *Can.* 5. *q.* 3. *causa* 10.

Illud te volumus modis omnibus custodire, ne qui Episcoporum Siciliæ de Parochiis ad te pertinentibus nomine Cathedratici amplius quam duos solidos præsumant accipere Pelagius, *Anno* 580. *Can.* 4.

The Council of *Braga* had fix'd this Right 8 Years before.

Whilst

Whilſt the Affairs of the Church were in this Poſture, the Princes diſtributed the publick Lands among the Soldiers, upon Conditions of ſeveral Natures, ſome of guarding the Frontiers, ſome of ſerving the State in Civil Affairs, or in the Wars, ſome of defending the Cities and ſtrong Places. And theſe Eſtates, which in the Language of the *Franks* and *Lombards* were call'd *Fiefs*, in the *Latin* Tongue, which was not then wholly extinct, were called *Beneficia*, as held of the Princes Bounty (1). For the ſame Reaſon the Portions of Eccleſiaſtical Eſtates, or the Right of poſſeſſing them, were alſo call'd *Benefices*, becauſe they were in that Reſpect like Biſhopricks given by the Prince; or by the Biſhop, who with the Permiſſion of the Prince, conferr'd the other Dignities: Beſides that the Church-men are conſider'd as a ſort of Spiritual Soldiers, who keep conſtant Guard, and exerciſe a ſacred Warfare.

The Abbies beyond the Mountains by this time being grown to vaſt Poſſeſſions, the Mayors of the Palace took upon them the Authority of making the Abbots: For which the Uſage of thoſe times in making the Monks all of meer Laymen, gave alſo a fair Occaſion: Unleſs ſometimes, as a thing of Grace, the Monks had Leave to chooſe an Abbot themſelves.

In *Italy*, where the Wealth of the Monaſteries had not made them conſiderable before the Year 750, they had paſs'd unregarded by the *Gothick* Kings, the Emperors, and the Kings of *Lombardy*; ſo that the Election remain'd ſtill in the Monks only, with the Super-intendency of the Biſhop.

(1) That which *Marculf* calls *Munus Regium* is nothing but a Fief, according to Mounſ. *Bignon*. *Dedit igitur vir ille per manu noſtra conjugi ſuæ illi villas nuncupantes illas, quas aut munere regio, aut de alode Parentum vel undecunq; ad præſens tenere videtur.* Lib. 1. formula 12.

But the Bishops being become uneasy to the Monasteries, by their aspiring to too much Power, the Abbots and Monks, to deliver themselves from this Subjection, betook themselves to the Pope; beseeching him to exempt them from the Bishop's Jurisdiction, and to take them into his immediate Protection.

This was gladly embrac'd by the Popes, who saw their Interests, in creating, by this means an immediate Dependance on themselves, in Cities belonging to other Governments; and in enlarging their Authority over the Bishops. Besides that it imported extreamly, that so great a Body as that of the Monks, who in those times were almost the only Persons, who addicted themselves to Learning, should depend intirely on the See of *Rome*. And this Exemption quickly extended itself to all the Monasteries, which by this Means became more closely united to that See, and separated from the Bishops (2).

CHAP.

(2) The Abbots, saith *Fra. Paolo*, *lib.* 2. *Council of Trent*, resolv'd to withdraw themselves from the Obedience of the Bishops, beseeching the Popes to take them under the Protection of St. *Peter*, so as to be under no Authority but that of the holy See: Who gladly receiv'd them, as it turn'd much to its Interest, seeing it is always theirs who obtain Privileges, to support his Authority who grants them. St. *Bernard* detesting this Innovation, remonstrates to Pope *Eugene* III. the great Abuse of an Abbot's refusing to obey his Bishop, and the Bishop his Metropolitan: That the Church Militant ought to govern itself after the Example of the Church Triumphant, where an Angel never saith, I will not submit to an Archangel: But what would this Saint have said, had he liv'd in one of the following Ages? St. *Bernard*, saith *Mezeray*, tho' a Monk, and most zealous for the holy See, loudly condemns these Exemptions. For, saith he, to exempt Abbots from the Jurisdiction of Bishops, what is it other, than to command them to rebel? And is it not as monstrous a Deformity in the Body of

of the Church, to unite immediately a Chapter or an Abbey to the holy See, as in a human Body to join a Finger to a Head? But it is observable by the way, That the Exemption from temporal Rights, which the Bishops themselves had granted them, opened the Door to this Spiritual Exemption.

Tune tibi licitum censeas suis Ecclesias mutilare membris, confundere ordinem perturbare terminos, quos posuerunt patres tui? ------ Monstrum facis, si manui digitum submovens facis pendere de capite, superiorem manui, brachio collaterem. Tale est, si in Christi corpore membra aliter locas, quam disposuit ipse----Sicut Seraphim & Cherubim, ac cæteri quiq; uiq; ad Angelos, & Archangelos, ordinantur sub uno capite, Deo: Ita hic quoq; sub uno summo Pontifice Primates, vel Patriarchæ Archiepiscopi Episcopi, Presbyteri, vel Abbates, & reliqui in hunc modum---- Quod si dicat Episcopus, nolo esse sub Archiepiscopo: Aut abbas, nolo obedire Episcopo, hoc de Cœlo non est: Nisi tu forte Angelorum quempiam dicentem audisti: Nolo sub Archangelis esse, &c. *De consider. lib.* 3. *cap.* 4.

CHAP. XI.

IN *France*, the Bishops gave themselves up intirely to secular Cares: And seeing those who were made by the King had no Restraint on their Behaviour, it was less to be expected the others should have any, who were made by the Mayors of the Palace, when the Royal Authority was so much declin'd. The Abbots too had their Avocations from the Functions they were at first design'd to; furnishing the King with Soldiers, and going themselves in Person to the Wars; but not to do the Duty of Ministers of CHRIST, but to draw their Swords in the Field (1).

(1) *The Use of Arms was forbid by the* Chap. 61. lib. 6. *of the Capitulars.* Si quis Episcopus, Presbyter, Diaconus, vel Sub-diaconus, ad bellum processerit, & arma bellica indutus fuerit ad belligerendum ab omni officio deponatur, in tantum ut nec Laicam Communionem habeat.

This furnish'd them with an Occasion to take all to themselves, instead of being contented with the Fourth Part; so in this Military Capacity they plunder'd the poor Priests who administer'd the Word of GOD and Sacraments to the People, and had nothing left to maintain them: And this oblig'd the People, every Man according to his Zeal, and his Devotion, to contribute to their Maintenance out of his own Estate.

But the Difference betwixt the Liberality of Contributions in one Place and another, occasioning sometimes great Complaints, the Question grew, What was the reasonable Part for the Curate? And the receiv'd Opinion of those times was, That it ought to be determin'd by the Divine Law in the Old Testament, which gave him the Tenth. And seeing GOD had enjoin'd this to the *Jewish* Nation (*a*) it was easy to represent it as due also under the Evangelick Law; tho' our Saviour Jesus Christ, and St. *Paul*, are silent in it, farther than to say, That the People ought to make a necessary Provision for the Minister (*b*) and that he who labours is worthy of his Hire (*c*); and that those who serve at the Altar ought to live by it (*d*): But without prescribing any fix'd Proportion, because in some cases the Tenth Part would be too little, and in others the 100th Part would be sufficient.

But as this is a thing in itself so evident, and I shall have occasion to resume the Subject, and treat

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(*a*) Decimas tuas non tardabis reddere, *Exod.* 22. Offeretis decimas, & primitias manuum vestrarum, *Deut.* 12.

(*b*) Dignus est operarius mercede sua, *Luc.* 10. & 1 *Tim.* 5.

(*c*) Dignus est operarius cibo suo, *Matth.* 10.

(*d*) Qui altari deserviunt, cum Altari participant---------- Dominus ordinavit eis, qui Evangelium anunciant de Evangelio vivere. 1 *Cor.* 9.

it

it more at large, hereafter, I will leave it now; only with this Obſervation, That all the Sermons of thoſe times, and for ſome Ages after, without touching on Matters of Faith, were all pointed to prove the Obligation of paying Tythes (2); which the Neceſſities, and Intereſts of the Curates or Miniſters, induc'd them to amplify and enforce with all their Eloquence: This, as it happens ſometimes to Orators, carry'd them ſo far, as to place all Chriſtian Perfection in that one Merit of paying Tythes: And not contented with Predial Tythes, they began to claim Perſonal alſo; that is to ſay, the Tythe of every Man's Trade and Induſtry, not excepting even that of Hunting, and the Soldiers Pay.

As many of theſe Sermons are extant without the Authors Names, ſome of them, through Miſtake or Deſign, have been attributed to St. *Auguſtine*, and other ancient Writers. But beſides that the Stile diſcovers that they have been made about the Year 800 (3), Hiſtory puts it out of all Doubt, that there never

(2) A Preacher in the time of *Charlemaign* inform'd his Audience, That they ought not only to pay Tythes to the Prieſts, but to carry them to their Houſes.

Nec debetis expectare ut Preſbyteri & Clerici alii decimas vobis requirant, ſed cum bona voluntate vos ipſi ſine admonitione debetis donare, & ad domum Presbyteri ducere.

In the Appendix to the Capitulars, *p.* 1376. ſee *lib.* 6. of theſe Capitulars, *chap.* 192. where the Prieſts are enjoin'd to preach to this Purpoſe. Againſt which Abuſe *Alcuinus* inveighs in one of his *Letters*.

Tu vero, *ſaith he*, frater dilecte, fili chariſſime, perge in opere Dei, & eſto Prædicator veritatis, non Decimarum exactor; quia Novella Anima Apoſtolicæ Pietatis Lacte nutrienda eſt, donec creſcat, convaleſcat & roboretur ad acceptionem ſolidi cibi. Quid imponendum eſt Jugum cervicibus Idiotarum, quod neq; nos neq; fratres noſtri ſufferre potuerunt? *Ep.* 7. *apud Mabillon, tom.* 4. *Analectorum, p.* 279.

(3) Cardinal *Peron* ſaith,

never were any Tythes paid either in *Africk* or in the East, and that they owe their Original to *France* (4), as hath been before observed.

That these Pieces were forg'd by the Monks in the time of *Charlemaign*, because they liv'd most at that time by transcribing Books. *Perroniana.*

(4) *The Council of* Mascon, Anno 585, *proceeded to excomunicate those who paid not Tythes.* Statuimus, & decernimus, ut mos antiquus a fidelibus reparetur, & decimas Ecclesiasticis famulantibus populus omnis inferat, quas sacerdotes aut in pauperum usum, aut in Captivorum redemptionem erogantes suis orationibus pacem populo ac salutem impetrent. Siquis autem contumax nostris statutis saluberrimis fuerit, a membris Ecclesiæ omni tempore separetur. *Can.* 5. *in fine.*

CHAP. XII.

I Come now to *Italy*, where for many Ages none was ordain'd to the Priesthood, who had not at the same time some particular Cure assign'd him, unless in the Case of some eminent Man for Piety and Learning, who would not accept the Care of any Parish at his Ordination, that might divert him from his sacred Studies. St. *Jerom* and St. *Paulinus* were thus ordain'd Priests, one at *Antioch*, the other at *Barcelona* (*a*); and except on this Occasion, Antiquity knew no Distinction betwixt Ordination and a Benefice, which was always assign'd him, and which gave a Right to be entertain'd out of the Common-Stock of the Church.

(*a*) Ea conditione in Barcinonsi Ecclesia consecrari adductus sum, ut ipsi Ecclesiæ non alligarer in sacerdotium tantum Domini non etiam in locum Ecclesiæ dedicatus. *Paulin. Ep.* 1. *ad Severum, Num.* 10.

But

But when Church-men of Merit happen'd, by the Calamities of War, to be driven from their Miniſtry, and receiv'd into other Churches, where they were maintain'd out of the Common-Purſe, in the ſame manner with the Clergy of the Place. As any Vacancy happen'd, by Death or otherwiſe, it was fill'd by ſome one of the ſtrange Clergy, who being thus provided for, was call'd *Incardinatus* (1); and he who ſtepp'd into a Miniſtry, having had none before, was call'd *Ordinatus*.

This Uſage began in *Italy* before the Year 600, when many Biſhops and other Clergymen were plunder'd, and driven from their Cures, by the Ravages of the *Lombards*, and were thus replac'd in other Churches, as Miniſteries became vacant. The Biſhops were call'd *Epiſcopi Cardinales* (*b*), and the Prieſts *Presbyteri Cardinales* (*c*).

Now

(1) That is, ſpeaking ſtrictly, admitted into a Society, tranſferr'd, or tranſplanted.

(*b*) Et temporis neceſſitas nos perurget, & imminutio exigit Perſonarum, ut deſtitutæ Eccleſiæ veſtræ ſalubri debeamus diſpoſitione ſuccurrere; & ideo ſecundum deſiderium veſtrum fratrem & Coëpiſcopum noſtrum illum, cujus Eccleſia eſt ab hoſtibus occupata, Cardinalem veſtræ Eccleſiæ, ſicut petiiſtis, conſtituimus ſacerdotem, quatenus vos de propitio, & ordinando, & vigilando, ſolicite ſtudeat gubernare, cui dedimus in mandatis, ne unquam ordinationes præſumat illicitas. *Liber Diurnus ſummm. Pontif. Tit.* 11. *cap.* 3.

(*c*) Hæc vox, *ſaith* Onuphrius Povinius, *in his Interpretation of Eccleſiaſtical Names*, eſt frequens in Regiſtro D. Gregorii, & Epiſtolis Pontificum Roman. Decretalibus, quibus is Cardinalis dicitur Presbyter vel Diaconus, qui certæ alicui Eccleſiæ, vel Diaconiæ proprius & adcerti alicujus tituli ſive Eccleſiæ miniſterium ordinatus, inſertus annexus, & ut ipſe loquitur incardinatus eſt. Nam St. Gregorio idem eſt, Cardinalem conſtituere in aliquo titulo, vel Eccleſia, quod incardinare alicui Eccleſiæ, vel in aliqua Eccleſia cardinare. Idem etiam de Epiſcopis dicit quod de ſua Eccleſia ad aliam neceſſitatis cauſa tranſlatos, Epiſcopos quidem Eccleſiæ

Now, the greateſt Part of thoſe who were ſo driven from their own Churches, betaking themſelves to thoſe of *Rome* and *Ravenna*, which were the richeſt, and had the moſt Employments in the Miniſtery to give, and theſe Strangers finding a welcome Reception there, both in regard of the Abundance in thoſe Churches, and of the great Concourſe it drew to them of the moſt eminent Perſons of all Kinds (which we ſee continu'd to this Day) it rarely happen'd, that any of their own People were ordain'd, but commonly Strangers: And this was the reaſon, why in theſe two Churches, all who had any Miniſtry, were call'd *Cardinales*: A Name which ſtill remains in the Church of *Rome*, but not in that of *Ravenna*; which *Paul* III. abrogated in the Year 1543.

Thus the Name of Cardinal, which firſt deriv'd it ſelf from a very low and abject Condition, is, by a Change of Signification, become a Title ſo elevated, that Cardinals are now ſaid to be, *Quaſi Cardines omnium terrarum* (2): And that which at firſt was no Degree

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cleſiæ ſuæ, illius vero ad quam tranſlati ſunt, ſacerdotes ſive Pontifices Cardinales vocat.

Where is to be obſerv'd, That by the Phraſe *incardinare aliquem*, St. *Gregory* means ſometimes, To make a Biſhop.

Machiavel gives the following Account of the Original of Cardinals. Under the Pontificate of Paſc. I. ſaith he, the Curates of *Rome* took upon them the Pompous Title of Cardinals, as an addition to the Honour of being the neareſt Miniſters to the Pope's Perſon, and of having a ſhare in his Election: And their Authority encreaſed to that Degree, eſpecially after they had defeated the People of *Rome* of the Right of electing the Pope, that the Pontificate almoſt always fell upon one of them. *Lib.* 1. *Hiſt. of Florence.*

(2) That is to ſay, The Hinges or Axis on which the Government of the univerſal Church turns. And accordingly the Council of *Baſil* expreſſes itſelf, *viz.* Cum ſummo Pontifici S. R. E. Cardinales in dirigenda Chriſtiana Republica Collaterales aſſiſtant, neceſſe eſt, ut

Degree nor Order in the Church, but introduc'd by meer Accidents of Calamity, is exalted to that Pitch of human Grandeur and Dignity, which we ſee it in Poſſeſſion of at this Day.

But whoever will look into the moſt celebrated Councils held at *Rome*, will find that the Cardinal *Roman* Prieſts, in their publick Writings, have always ſigned under the *Italian* Biſhops; and that even in after Times, no Biſhop was made a Cardinal-Prieſt.

The firſt Biſhops who were made Cardinals, were Perſons of Note, who had been driven from their Churches; for Inſtance, *Conrade* Biſhop of *Mentz*, who having been treated as a Rebel by the Emperor *Frederick* I. was receiv'd with open Arms by Pope *Alexander* III. and made Cardinal of St. *Sabin*. In thoſe Days, and until the time of Pope *Innocent* IV. the Cardinals wore no Habit, nor any Mark of Diſtinction. He gave them the Red-Hat on *Chriſtmaſs*-Eve (3) in the Year 1244. And *Paul* II. added the Red-Cap (4) to be worn by all the Cardinals, except ſuch as were Monks or Regulars: Yet to theſe alſo it hath been granted ſince by *Gregory* XIV.

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ut tales inſtituantur, qui ſicut nomine ita re ipſa Cardines ſint, ſuper quos oſtia univerſalis verſentur & ſuſtententur Eccleſiæ. *Seſſ.* 23.

Sicut per Cardinem volvitur oſtium Domus, *ſaith* Eug. IV. Ita ſuper hos ſedes Apoſtolica totius Eccleſiæ oſtium quieſcit & ſuſtentatur.

(3) Hic in vigilia natalis Domini 1244. Lugduni in Concilio generali 12 Cardinalibus viris excellentiſſimis creatis ejus ordinis hominibus proprium inſigne, pileum rubrum dedit---- quo ſignificabatur eos etiam caput ſuum, ſi opus eſſet, pro Eccleſiaſtica Libertate tuenda gladio offerre debere, & præſertim eo tempore quo Romana Eccleſia a Frederico II. Imp. vehementer oppugnabatur.

Onuphr. Panvin. annot. ad vit. Innoc. 4.

(4) And alſo Houſings or Horſe-clothes of Scarlet, when they rode on Horſeback. *Quibus etiam*, ſaith *Platina*, in this Pope's Life, *panum coccinei coloris, dono dedit, quo Equos, vel Mulas ſternerent dum equitant.*

We

We have thought a ſhort Deduction of this ſplendid Order, from the Original, neceſſary in this Place, as it concerns ſo eminent a Dignity, which at this Day holds the ſecond Place in the Church, and for which, the World ſeems not to afford Titles pompous enough (5). [*Urban* VIII. who reigns at preſent, gave them the Title of *Eminence*, by a ſolemn Bull (6).]

(5) That we may have every thing before us upon this Subject, what *Mezeray* ſays of Cardinals ſeems to merit a Place in our Obſervations. 'In the Life 'of *Phil. Auguſtus*, ſaith he, 'the Aſſiſtance of ſo many Men, 'choſen out of all Degrees, in 'the Weſtern Church, which 'ſupply'd the ſacred College, 'contributed not a little to ſup'port the Popes under the Bur'den of their Affairs, and to 'encreaſe their Authority in 'the moſt diſtant Countries; 'but being thus agrandiz'd by 'their Means, they deliver'd 'themſelves from their Depen'dance.

(6) Theſe laſt Words have been added to the Original, in the *Italian*, either by the Copiers or the Printers, who probably have miſtaken a Marginal Note for Part of the Text: For *Frà. Paolo* was dead before *Urban* VIII. obtain'd the Chair.

CHAP. XIII.

FROM the firſt Eſtabliſhment of the Church, until near the Year 500, every Prieſt, as we have already ſhewn, was ordain'd to ſome particular Cure or Miniſtry, and liv'd upon the Common-Stock: And after Benefices came in uſe, no Perſon was ordain'd, without a Deſignation to ſome particular Benefice for his Maintenance.

But in Proceſs of Time, it became the Practice, That if any Man well qualify'd for the Miniſtry happen'd to appear, tho' there were no Room, nor Benefice vacant, the Biſhop, for fear of looſing him, thought

thought fit to ordain him without Office or Title, and conſequently without Benefice, in Expectation of one becoming vacant. And theſe Supernumeraries without Title, were Co-adjutors to thoſe who had Benefices; who, for their Service, allow'd them a Subſiſtence.

But in time alſo this ſort of Clergy, without Benefices, encreaſing to an exceſſive Number, and the Beneficiaries growing weary of their Charity towards them, it produc'd a Multitude of Scandals and Indecencies, which it was neceſſary to remedy by Law; by which, the Biſhops were oblig'd to maintain all the Clergy themſelves, whom they ſo ordain'd without Title (*a*).

This, at the Beginning, put ſome Stop to the Diſtemper; which, tho' often ſuppreſs'd for a while, as often return'd; for which there were two apparent Cauſes: One was a prevailing Deſire among the People in thoſe Days, of getting into Orders, that they might enjoy the Privilege of Exemptions, and withdraw themſelves from the Juriſdiction of Princes: The other was, an aſpiring in Prelates to Dominion, by encreaſing the Number of their Subjects. Nor have yet theſe Diſorders met with ſuch a Remedy, but that frequent Indecencies ſtill happen in many Kingdoms, to the great Diminution of the People's Reſpect for Religion.

(*a*) Epiſcopus ſi aliquem ſine certo titulo de quo neceſſaria vitæ percipiat, in Diaconum & Presbyterum ordinaverit, tam diu ei neceſſaria ſubminiſtret, donec in aliqua Eccleſia ei convenientia ſtipendia Militiæ clericalis aſſignet. Niſi talis ordinatus de ſua paterna hæreditate, vel alia honeſtatis cauſa ſubſidium poſſit habere.

This Canon was made by the Council of *Lateran*, under *Alexander* III. and is to be found in the 4th *Chap. Extra de Præbendis*.

CHAP.

CHAP. XIV.

NEither hath the Episcopal Order itself escap'd this Abuse, since Bishops were begun to be made only Titular, and by Derision call'd *Nulla-tenentes* (1). Yet it cannot be said but some more Ceremony is used in making these, than in the Case of other Priests without Benefices. For tho' Priests and Deacons, and other inferior Ministers are ordain'd without any Cure assign'd them, either real or nominal, there is no Instance of a Bishop being ordain'd without a Diocess assign'd him, from which he takes his Title, tho' it be in *Partibus Infidelium.* But in that Case having no Christian in his Diocess, and only a Name without a People, he lives by serving some great Bishop, who cannot attend the Episcopal Functions, or thinks them too inferior for him to officiate in Person. And these Titular Bishops, before the Council of *Trent*, were in great Abundance, tho' now their Number is very much reduc'd.

(1) That is to say, *Holding nothing.* A *Spanish* Bishop maintain'd in the Council of *Trent*, That a Bishoprick necessarily requir'd a Diocess; that a Bishop and his Church are Co-relatives like Man and Wife: That no Footstep can be found in all Antiquity, where Bishops who quitted their Bishopricks, or were depriv'd of them, ever pass'd afterwards for such, any more than a Man, who hath lost his Wife, for a Husband.

An *Italian* Bishop rep'y'd That the Titular Bishops having only the Power and Vertue of Order in them, their having a Church was not necessary: That if in former Times no Bishop was ordain'd without having a Church assign'd him, it was because neither Priest, nor Deacon was then ordain'd without a Title: That since that time, it had been found for the Service of GOD and the Church, that there should be Priests without Titles; and consequently Bishops without a Diocess. *Fra. Paolo, lib.* 8. *Conc. Trent.*

Indeed

Indeed seeing the Jesuits have started a Question, Whether the Pope hath Power to ordain Bishops without any Title at all, real or nominal, and that they have been pleas'd to decide it in his Favour, we think it is best answer'd by a Prayer, That GOD would please never to suffer such Power to be put in Practice, lest the Reverence for this Order also be lost, which had been in general preserv'd, and with the highest Observance towards all Ecclesiastical Orders, while no Man was ordain'd that had not a particular Ministry assign'd him: And it had this Effect, that every Man was Resident, since none could be found to spare, to officiate for another.

As the Abuse of Non-residence was then utterly unknown, so also was the Distinction betwixt Benefices, which oblige to Residence; and those which do not. And were the Benefice rich or poor, or the Business of it great or little, the Incumbent could no way avoid serving in Person.

But after they began to ordain without Titles, those who had Titles were from hence supply'd with Curates for small Salaries, which afforded the Titulars a convenient Leasure to follow other Business. Accordingly the Bishops in *France*, and even the Parish-Priests, substituting some poor Priests in their Room, pass'd much of their Time at Court.

A little before the Year 800, this Abuse began to be remedy'd, not by Laws or Ordinances, but by Censures and Deprivations; which Severities serv'd to keep the Beneficiaries in some Order. Yet the Splitting of Benefices, Ordination without Titles, and Regulations for Residence, could not, in the Progress of these Institutions, through so many different Places, pass without some Variations in the Practice. Nor were they avoidable even in the same Church sometimes, from the different Views and Designs

Designs of succeeding Bishops, or the different Orders and Provisions made from time to time by Princes, to obviate the Disorders arising from the Wilfulness of some Churchmen, too busy or enterprizing; or the Resentment of some Layman, who could not, with Patience, bear to be excluded from the Management of Ecclesiastical Affairs.

CHAP. XV.

THings were in this continual Fluctuation until the time of *Charlemaign*, who having brought *Italy*, *France*, and *Germany* under his Subjection, made Reformations in the Affairs of the Church, by reducing the different Institutions he found in different Places, to one establish'd Form; by reviving many of the old Synodical Canons that were grown obsolete; and by making several Ecclesiastical Laws concerning the Distributions of Benefices, according to the Exigency of the Times.

He restor'd in part to the Parish-Priests or Curates, the Estates which (as we have already shewn) the Bishops had taken to themselves; ordering, that every Curate should have a Share assign'd him of the Revenue or Fund call'd, *the Manso*. (1)

At this time the Custom of paying Tythes to the Parish-Church, which had been long establish'd in *France*, pass'd into *Italy*. Only *Charlemaign* added, That the Bishop, as Super-Intendant and Pastor-

(1) That is to say, All that is necessary for Subsistence. As St. *Cyprian* observes in the Life of *Cæsarius* of *Arles*. *Donec omnes ab ipso essent redempti, eo argento, quo Antecessor ejus Ecnius Ecclesiæ Mensæ reliquerat.* In Feodal Matters, we yet use the Word *Table*.

General,

General, might regulate the Distribution of Tythes(*a*) according to his Discretion.

And therefore in Places of Plenty, and where the Tythes were large, the Bishops distributed them several Ways: One Part they took to themselves, another they assign'd to the Priests of their Cathedral; and some Part also to the Monasteries, on Condition they should appoint a Vicar in the Cure, allowing him a convenient Stipend.

Besides this Appointment of the Bishops, sometimes the Non-Parochial Churches took to themselves some other Part, which in time they came to defend by Prescription. And Princes also assign'd Tythes to Churches, for which they had some particular Devotion.

Charlemaign likewise restor'd to the Cities, the Liberty of Electing their own Bishops, allowing the Clergy and the People to present some one out of their own Diocess; who, when approv'd by the Prince, and invested by receiving the Crosier and the Ring, was consecrated by the neighbouring Bishops.

This Emperor restor'd likewise to the Monks, the Liberty of Electing their Abbots (*b*). He order'd farther, That Bishops should ordain such for Priests, as should be presented to them by the Parishioners.

(*a*) Ut Decimæ in potestate Episcipi sint, qualiter a Presbyteris dispensentur, *Cap.* 143. *lib.* 1. *Capitular.*

(*b*) Monachorum siquidem causam qualiter Deo opitulante ex parte disposuerimus, & quomodo ex se ipsis sibi eligendi licentiam dederimus, & qualiter quiete vivere, propositumq; si defessi custodire valerent, ordinaverimus, in alia schedula diligenter adnotari fecimus, & ut apud successores nostros ratum foret, & inviolabiliter conservaretur, confirmavimus.

Finaly

Finally he eſtabliſh'd the Election of the Pope in the ſame Method that had been practis'd in the times when the Emperors of the Eaſt reign'd in *Rome*; which was, That the Clergy and People ſhould Elect, and the Decree of the Election ſhould be ſent to the Emperor, which if confirm'd by him (*c*), the Elect was to be conſecrated.

True it is indeed, that after the Death of *Charlemaign*, the Weakneſs of his Poſterity either in Power or underſtanding, gave Advantage to the Popes, who were choſen by the People, to make themſelves be conſecrated without ſtaying for the Emperor's Confirmation: So *Paſchal* dealt with *Lowis* the Son of the Emperor *Charles*, tho' he afterwards ſent to excuſe it, pretending he was compell'd by the People to comply.

(*c*) See here the Oath, which the Clergy and the People of *Rome* took to *Lowis* the *Debonair*, and to *Lotharius* his Son, *Anno*, 824.

Promitto ego ille per Deum omnipotentem, & per iſta quatuor Evangelia, & per hanc crucem Domini noſti Jeſu Chriſti, & per corpus beatiſſimi Petri, Principis Apoſtolorum, quod ab hac die in futurum fidelis ero Dominis noſtris Imperatoribus Ludovico, & Lothario diebus vitæ meæ, juxta vires & intellectum meum, ſine fraude aut malo ingenio, ſalva fide, quam repromiſi Domino Apoſtolico, & quod non conſentiam, ut aliter in hac ſede Romana fiat Electio Pontificis, niſi canonice & juſtè, ſecundum vires & intellectum meum; & ille qui electus fuerit, me conſentiente, conſecratus Pontifex non fiat, priuſquam tale ſacramentum faciat in præſentia Miſſi Dominici Imperatoris, & populi cum Juramento, quale Dominus Eugenius Papa ſponte pro conſervatione omnium factum habet per ſcriptum. *Tomo* 1. *Capitul. pag.* 647. *vide Thegan ad annum* 827.

Perduravit hæc conſuetudo, (*ſaith* Onuphrius) uſq; ad Benedictum II. cujus ſanctitate permotus Conſtantinus Imperator, Heraclii pronepos, edicto ſuo juſſit, ut deinceps, quem Clerus, Populuſq; Rom. Pontificem delegiſſent, Is, nulla amplius Imperatoris confirmatione expectata, more vetuſtiſſimo ſtatim ab Epiſcopis ordinaretur. *Annot. ad vit. Pelagii* II.

Some

Some there are who affirm, that *Lewis* renounc'd the Right of confirming the Pope, and alledge for Proof, the Canon *Ego Ludovicus* * ; which many others of great Learning, and with great Appearence of Reason, maintain to be a meer Figment (2). But it would be time mispent to reason any longer upon it, seeing it is out of all Controversy, that *Lotharius* and *Lewis* II. Son and Grandson of this Emperor, confirm'd all the Popes elected in their times.

* *Distinct.* 63. Vide Florum de Electionibus, in fine operum Agobardi, *cap.* 6. *pag.* 258. & ibi Baluzium. Vide etiam Thegan. ad *annum* 816, & 817.

(2) Witness what *Platina* says in the Answer of *Lewis* the *Debonaire* to the Deputies from the Pope, That the People and *Roman* Clergy ought not to contradict ancient Custom, nor the Agreement of their Fathers, and that they should take great Care for the future, how they offended against the *Imperial* Majesty.

Paschalis nulla interposita Imperatoris authoritate Pontifex creatur. Hanc ob rem ubi Pontificatum iniit, statim legatos ad Ludovicum misit, qui ejus rei culpam, omnem in Clerum & populum reiicerent, quod ab his vi coactus Pontificum munus obire. Accepta hac satisfactione Ludovicus respondit, populo & Clero majorum instituta, & pacta servanda esse; caverent ne deinceps majestatem læderent. *In vita Paschalis* I. *initio.*

As for the Authors, who have writ, that *Lewis* the *Debonaire* had renounc'd the Right of confirming the Popes, 'tis an Error perhaps which might arise from what *Platina* reports in the same Life, which the Library-Keeper *Anastasius*, that is, Chancellor of the holy See, relates, That *Lewis* granted to *Paschal* the sole Power of choosing Bishops, to whose Consecration the Consent of the Emperors was heretofore necessary.

Idem Bibliothecarius scribit Ludovicum liberam eligendorum Episcoporum potestatem Paschali dedisse, cum antea ea quoq; in re Imperatores consulerentur: Quam potestatem ab Hadriano Pont. Carolo concessam idem Author refert.

For, admitting that *Lewis* had resign'd back to the Pope the Right of electing Bishops, which Pope *Hadrian* had conferr'd on the Emperor *Charles* his Father, it doth not follow, that he was depriv'd of the Power of confirming the Election of the Popes. Add to this, that the Canon *Ego Ludovicus* is in a Stile very different from all the Acts of *Charlemaign* and *Lewis*, and that it is without Date or Seal.

In that Age, and the Times both preceding and following, when it ſometimes happen'd, that the Abſence of the Prince occaſion'd Delay of ſeveral Months in the Confirmation and Conſecration of the Pope, the Elect, however, did not aſſert his Choice by any Act of Government, until he were confirm'd, unleſs ſome Emergency made it neceſſary, and to ſupply a Defect in the Adminiſtration: As it happen'd in the Caſe of St. *Gregory:* And he was not call'd *Epiſcopus*, but only *Electus:* Nor did he even hold the firſt Place in the Church; but the Arch-Prieſt, who ſtil'd himſelf, *Servans Locum ſanctæ ſedis Apoſtolicæ.*

But after that Princes were excluded out of the Election, as ſhall be ſhewn in its proper Place, there was but a ſmall Interval of Time betwixt Election and Conſecration. However it was not ſaid that the Popedom was conferr'd by Election only, but by Conſecration alſo: So that if the Elect came to dye before Conſecration, he was not placed in the Catalogues of Popes. Of which one *Stephen*, elected in the Year 752, after the Death of *Zacharias*, is an Inſtance, who, for not having been conſecrated, was never reckon'd in the Number (*d*).

By what appears, *Nicholas* II. was the firſt Pope who decreed, in the Year 1059, That if at any time the Pope, through the Calamities of War, or other Effect of Malignity and Perverſeneſs, could not be crown'd, he ſhould nevertheleſs exerciſe his Authority, as the true and lawful Pope, in governing the

(*d*) Licet defuncto Zacharia, (*ſaith* Platina, *in the Life of Pope* Stephen II.) Stephanum quendam Presbyterum Roman. Pontificem Populus Statim creaſſet, qui tertia die Pontificatus ſui, dum res domeſticas diſponere incipit morbo Apoplexiæ correptus interiit.

Roman

Roman Church *, and in disposing the Goods of the holy See.

However there are some Traces left of the ancient Usage, for if the Pope make a Bull before Consecration, he doth not say, *Pontificatus nostri anno* 1, but only, *A Die sucepti a nobis Apostulatus Officii* †. And there want not those who maintain, That the Pope, before his Consecration, ought not to stile himself *Episcopus*, but *Electus*; and that he hath no Right to issue Bulls. Insomuch that this Right being contested with *Clement* V. he publish'd a Bull in the Year 1306, to forbid under Pain of Excommunication any such Question to be brought into Dispute *. So that it is now a settl'd Point against the Opinion of all Antiquity, That the Pope receives all his Authority from his sole Election by the Cardinals. And it was in this View that the Writers of those times have, with some Pains and Contrivance, inserted this *Stephen* (3). whom we have lately mention'd, in the Catalogue of Popes: And to finish their Design, they have therefore given themselves the Trou-

* This Decretal is reported by *Gratian*, *dist.* 23. *canon in nomine Domini.* 1.

† That is, from the Day of our having undertaken the Apostleship.

* This Decretal is in the Extravagant's Commun. *lib.* 5. *cap.* 4. *tit.* 10. Vide *John de Selvo* de Beneficio, *part.* 1. *quest.* 2. & *Blaz. Ortiz.* In Itinerario Adriani 6. *cap.* 7.

(3) *Onuphrius Panvinius*, an Author wholly devoted to the Church of *Rome*, has not reckon'd him as such, neither in his Catalogue, nor Chronicle of the Popes. He only mentions him in these Terms: *Antequàm tamen Stephanus quidam Presbyter a Populo creatus tertia post die obiit.* In Catalogo. Where is to be observ'd, that he names *Stephen* II. immediately after *Zacharius*; whereas he should have nam'd the *Stephen* in question before *Stephen* II. who would have been *Stephen* III. if the other had been actually Pope, and so acknowledg'd. This shews, That at that time to be *Electus* was not all that was necessary to be *Episcopus*; and that a Man did not become *Episcopus*, but by Consecration, which follow'd the Election.

ble to change the Numbers of all the following *Stephens* that were Popes, calling the second, the third; the third, the fourth; and so all the rest consequentially to the Ninth, which they make the Tenth (4) with vast Confusion and Contradiction among the old and new Writers, who are thus made to give one another the Lye, and only for the Interest of maintaining this single Point *.

(4) *The same* Pavinius *in his Notes on the Life of* Stephen V. *explains the matter, viz. That* Stephanus VI. dicendus esset, non V. quod ante Stephanum illum, quem Platina secundum vocat, fuerit Papa Stephanus alter qui triduò tantum vixit: Non enim plus vel minus vivendi ratio aliquem verum Pontificem facit, sed vera & legitima comitia, quibus Stephanum illum renunciatum esse constat. *Ideo & in Stephanis numerorum notæ mutandæ, & qui aliis est* 2, 3, 4, 5. *hic debet esse* 3, 4, 5, 6, *&c. usq; ad* 10.

* The Dead have nothing left but Reputation, and to go about to deprive a Writer of his Veracity, is the only way of robbing him. And thus the poor dead Authors were charg'd with a Falsity and Insincerity, which hath not been set to Rights again in some Ages.

CHAP. XVI.

IT is plain the Government of the Church in its Beginning was intirely Democratical, All the Faithful having a Share in all Deliberations of Moment. Thus we find them all assisting at the Election of *Matthias* to the Apostleship (1), and of the seven Deacons (2): And when St. *Peter* had receiv'd the Centurion *Cornelius*, who was a *Gentile* (3), into the Number of Believers, he gave an account of it to the whole Church (4).

(1) Act. 1.
(2) Act. 6.
(3) Act. 10.
(4) Act. 11.

Thus

Thus the famous Council of *Jeruſalem* was compos'd of the Apoſtles, the Prieſts, and other Brethren in the Faith; and the Letters which were writ from that Aſſembly, went in the Name of thoſe Three Orders (*a*)

But as the Church encreas'd in Numbers, the Faithful neglecting to aſſiſt any longer at thoſe publick Aſſemblies, and withdrawing themſelves to the Cares of their own Families, the Government reſted ſolely in the Miniſters of the Church, and ſo inſenſibly became Ariſtocratical; which brought all Affairs to have their Determinations by Councils: Excepting as to Elections, which continued Popular ſtill. The Biſhops of the ſame Province aſſembled with their Metropolitan at leaſt twice a Year, and made a Provincial Synod. The Clergy with their Biſhop made a Dioceſan Synod. And almoſt daily they held an Aſſembly, call'd *The Conſiſtory*, in Emulation of the Imperial Council of State, and as if they affected to rank themſelves with the Council which carry'd that Name.

In this Eccleſiaſtical Conſiſtory, which was compos'd of all the principal Perſons of the Churches in the City, aſſiſted by the Biſhop, all the Affairs of the Church were propos'd, debated and determin'd: A Cuſtom every where ſince aboliſh'd, except at *Rome*, and there the Shadow of it only remains. But after Benefices were erected, that the Prieſts had their Maintenance apart, they made the Intereſt of the Community ſo little their Care, that they ceas'd to go any longer to the Conſiſtory, which thus fell into diſuſe, and was held no more.

(*a*) Tunc placuit Apoſtolis & ſenioribus cum omni Eccleſia mittere Antiochiam viros primos in fratribus ſcribentes per manus eorum, Apoſtoli, & ſeniores Fratres, his qui ſunt Antiochiæ & Syriæ, & Ciliciæ, fratribus ex gentibus, Salutem. *Act. cap.* 15.

To ſupply this Failure, the Biſhops held an Aſſembly of all the Clergy of their Cathedral Church, to aſſiſt in their Councils, or otherwiſe to adminiſter in the Spiritual Government. And theſe receiving their Subſiſtence out of the Common-ſtock, either by the Year, by the Month, or by the Day, were call'd *Canonici* [Canons] from the Word *Canon*, which in the Weſtern Empire ſignify'd ſuch a Meaſure of Corn (*b*) as was ſufficient to feed a ſingle Man, a Family, or a City. And this Inſtitution of Canons took riſe a little before the Reign of *Charlemaign*, by whom alſo it receiv'd ſome Improvement in its Regulation.

(*b*) Canon (*ſaith* John Calvin *in his* Lexicon) in Conſtitutionibus Imperatoriis, anniverſariam penſitationem, collationem, & præſtationem ſignificat, quæ a Provincialibus quotannis populo vel Romano, vel Conſtantinopolitano gratis mittebatur, & ſpeciebus his conſtabat, frumento, vino, carne, oleo, &c.

And it is this Canon which *Caſſiodor* means, and which he commands the *Venetian* Tribunes to ſend in their Barks to *Ravenna*.

Data Juſſione cenſuimus, ut Iſtria vini & olei ſpecies ad Ravennatem dirigeret manſionem. Sed vos qui numeroſa navigia in ejus confinio poſſidetis, providete, ut quod illa parata eſt tradere, vos ſtudeatis ſub celeritate portare. *As for Canons*, Rara avis in terris (*ſaith the Abbot* Valuinus) Canonicus a Canone vitæ. Unde ergo? Audi unde, eſt namque Canon vitæ, & eſt Canon pecuniæ, *viz.* alicujus penſionis certæ, unde ſolet dici, ſolve Canonem meum. Eja ergo, ò Canonice! inveniamus Canonem tuum a quo derivaris, a Canone pecuniæ, non vitæ, id eſt, Canone Regionis, non a Canone Religionis. *In homilia de Zizania.*

CHAP.

CHAP. XVII.

IT is yet farther to be obſerv'd, that in thoſe times the Benefices and Revenues of the Church were grown to that Size, that they became Rewards for the principal Men of the Court and Cities, who were made Biſhops, ſo the Biſhopricks fell to their Share, to whom alſo the Prince had committed a great Part of the Civil Government: At firſt only on extraordinary Occaſions, but after, finding Affairs go well in their Hands, they were conſtantly employ'd, tho' not every where in the ſame Quality or Station, but as the particular Affairs of the Place, the Abilities of the Biſhop, or ſometimes the Incapacity of the Earl or Comes requir'd; which Defect was then ſupplied, by ſubſtituting the Biſhop in his Room.

And hence it came, that when the Poſterity of *Charlemaign* fell into ſuch a State of Degeneracy, as to ſink at laſt into the moſt profound Ignorance of thoſe Ages, the Biſhops thought it adviſable no more to acknowledge this Authority as derived from the Prince, from whence it realy came, but to aſſum it to themſelves, and exerciſe it as a Right peculiar to their Function, under the Name of *Eccleſiaſtical Juriſdiction*.

Such was the Original of this Power, which we now ſee continually and ſo deſperately conteſted with Princes, even to the endangering the Peace of the beſt Civil Governments, and throwing them ſometimes into Convulſions.

CHAP. XVIII.

THE want of Spirit and Genius in the Princes of *Charlemaign*'s Posterity, so requisite to fit them for Empire, made his Statutes of no long Duration; so that the first Disorders regain'd apace. The People, in few Places, and very rarely had any Share in the Election of the Bishops, and less in that of the other Ministers of the Church. The Bishops ordain'd whom they pleas'd, and dispos'd Benefices with the same Liberty: Except when the Prince pleas'd to recommend any Man, and then they never fail'd to obey. The Pope was always chosen by the People, and confirm'd by the Emperor before Consecration, and the other Bishops of *Italy* were never consecrated, until the Emperor had first approv'd them: And this was yet more strictly observ'd in *France* and *Germany*.

When the Pope would favour any Man's Pretensions to a Bishoprick neighbouring to *Rome*, he apply'd to the Emperor to desire his Nomination. And if it happen'd that the Pope were apply'd to for his Consecration of a Person who had not the Imperial Letters of Licence, he refus'd Consecration till he obtain'd it.

But the Posterity of *Charlemaign* having been driven out of *Italy* in the Year 884. Pope *Hadrian* III. ordain'd, That the Popes should, for the future, be consecrated, without applying to the Emperor(*a*) at all. In

(*a*) Hadrianus III. *saith* Platina *in the beginning of his Life*, tanti animi fuit, ut initio Pontificatus sui statim ad senatum populumq; retulerit, an. Dom. 895. ne in creando Pontifice Imperatoris authoritas expectaretur, utq; libera essent, & Cleri

In treating on this Subject of Benefices, it will certainly not be foreign to our Purpose to take Notice of the Popedom itself, as we shall again have occasion to do in the Sequel of this Discourse, seeing it certainly is deservedly to be rank'd in the Number of Benefices; and as it has been expresly so stil'd by *Clement* III. in a Time wherein the Pope had not only ascended to the highest Pitch of human Greatness, but had taken also a particular Stile of Dignity to distinguish him from other Bishops.

Nothing is more known, than that the Names of *Sanctus*, *Sanctissimus*, *beatus*, *Beatissimus*, were common to all Believers in CHRIST, when all Men under that Profession, were aspiring to an absolute Perfection of Holiness. But when Secular-men became more engag'd in the Affairs of the World than was expedient or decent, and so quitted their Titles to those blessed Names, they fell to the Share of the Ecclesiasticks only.

And after the Remissness that was found in the inferior Clergy, from their primitive Strictness of Life, these Names remain'd to the Bishops only; but when they too came to sink in their Characters, by too eager a Pursuit after the Things of this World, the Bishop of *Rome* alone retain'd these Titles, in whom they still continue, not as Designations of Vertue, but of Grandeur and Power.

Cleri & Populi Suffragia. --- Quod quidem Institutum a Nicholao I. tentatum potius quam in choatum. Illectum credo hac opportunitateHadrianum, quod Carolus (*this was* Charles *the Gross*) Imp. ab Italia cum Exercitu discedens in Normanos rebellantes moverat.

The same *Platina*, in the Life of Pope *Hadrian* II. saith, that *Lewis* the *Stammerer* approv'd the *Romans* having put the Pope in Possession of the Popedom without staying for the Confirmation of the Emperor: On which false Step, 'tis probable, *Adrian* III. took the Resolution of excluding the Emperor from the Election of the Pope.

As

As for the Name of *Pontifex*, it was, and is a Name common to all Bishops; and there are some Canons still extant, wherein all Bishops are stil'd *Summi Pontifices* (*b*). And even the Name of *Papa*, which seems to be a Title most pecular to the *Pontifex Romanus*, was given indifferently to all Bishops. St. *Cyprian*, Bishop of *Carthage*, is call'd *Papa*; St. *Jerom* gives this Title to St. *Augustine*: And in later Times *Sidonius Appolinaris*, and many of the Bishops, stile one another by the Name of *Popes* (*c*).

And we find in the Decretal of *Gratian*, Titles of several Canons, wherein *Martin* Bishop of *Bragua* is call'd *Papa*.

Gregory VII. was the first who in the Year 1076 (*d*) decreed that the Name of Pope should be peculiar to him and his Successors, and be ascrib'd to none but the *Roman* Papa (*e*).

And

(*b*) *Vide Witichind. pag.* 22. *Number* 10. Omnia (*saith the Capitular of* Aix la Chapelle) summis Pontificibus debentur, & non Chorepiscopis, qui nec summi Pontifices nec Episcopi fuerunt. *cap.* 6. *anno* 803.

(*c*) Hanc vocem, (*saith* Panvinius *in his Interpretation of Ecclesiastical Names*) omnes antiqui Christianorum Episcopi pro Patre, & sive majore Patre frequentarunt, & præsertim magnarum & insignium urbium, ut Romæ Carthaginis, Alexandriæ, Antiochiæ, Hierosolymorum, *&c.* Cornelius enim Episcopus Romanus, & alii multi in Epistolis suis Cyprianum Carthag. Episcopum Papam & Papatem vocant. Dionysius Alexandrinus Ep. Heraclam Predecessorem suum in Epist. ad Philemonem Presbyt. Romanum beatum Papam nominat. Similiter Athanasius, Theophilus & Cyrillus Episcopi Alexandrini Papæ dicuntur. Sidonius in Episcopis suis passim omnes Galliarum Episcopos Papas appellat. *Vide Savoronem ad Epist.* 1. *lib.* 6. *Epist. Sidonii Apolinariis.*

(*d*) In a Council held at *Rome*. *Vide Sirmond ad Ennodium*, *Lib.* 4. *Ep.* 1.

(*e*) Hæc vox (*saith* Panvinius, ibid.) post Gregorii I. tempora, reliquis Episcopis adempta, soli Romano Pontifici attributa est, qui & Apostolicus est aliquando dictus, ob præcipuæ Apostolicæ sedis, cui præest, reverentiam.

In

And this Matter was carry'd ſo high, and with ſo much Appearance of Party-rage and Faction, that *Anſelm* Biſhop of *Lucca*, one of his Followers, hath not ſcrupl'd to ſay, That *it is as abſurd and impious to ſuppoſe there are more* Popes *than One, as that there are more than One* GOD.

In which *Panvinius* and *Frà. Paola* are very different, but as the firſt liv'd in the Court of *Rome*, it look'd like a Compliment to that Court, to diſſallow the Name of Pope to the Biſhops, 4 Ages before the Pontificate of *Gregory* VII. But tho' this Pope had taken it away from the other Biſhops, yet *Urban* II. his Succeſſor ſcruples not to call *Anſelm* Archbiſhop of *Canterbury*, *Papam alterius orbis*.

CHAP. XIX.

BUT to return to the Times immediately following the Line of *Charlemaign*. *France* gave Birth to an Invention, which tho' it ſeem'd to be all in Favour of the Laity, yet prov'd an immenſe Encreaſe of Wealth to the Churches. This was a Contract call'd *Precaria* (1); by which, whoever

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(1) The *Precaria* were in uſe from the time of St. *Auguſtine*. Witneſs *Poſſidius* in his Life, *chap.* 24. and the Monk *Marculfus* in his *Formulæ*.

Add to this the Canon 18. *Concilii Epaonenſis*, held under *Childebert*, *anno* 517. Clerici quod etiam ſine precatoriis qualibet diuturnitate temporis de Eccleſiæ remuneratione poſſederint cum authoritate glorioſiſſimi Principis noſtri, in jus proprietarium præſcriptione temporis non vocetur, dummodo pateat Eccleſiæ rem fuiſſe: Ne videantur etiam Epiſcopi adminiſtrationis prolixæ, aut precatorias, cum ordinati ſunt, facere debuiſſe, aut diu tentas Eccleſiæ facultates proprietati ſuæ poſſe tranſcribere. *Vide Can.* 1. *Concil. Agath. anno* 506. *Can.* 7, & 45. *Aurelian.* 1. *anno* 511. *Can.* 23. *Aurel.* 4. *Can.* 34. *Lugd.* 2. *Cap.* 5.

made

made a Gift of his Estate to the Church, had the Profits or Usufruct return'd him again, and twice the Value besides, during his Life. And to those who would quit their Usufruct also to the Church, she gave three times (*a*) the Value in other Estates of the Church to enjoy in Exchange: And this Usage pass'd from hence into *Italy*.

For the Present, this Contract turn'd manifestly to the Advantage of those who trebled their Income, and of such as had no Children, or who were more concern'd for their present Advantage than for their Families: But in Truth the Church was the Gainer, which after the Death of the Donor swept all.

From this Time until the Year 963, during the Space of 80 Years, wherein *Italy* labour'd under the extreamest Confusions, as well in the Civil Government as Ecclesiastical, especially in the Papacy (*b*), we must not expect to find any Traces or Form of good Government in the Church, but a meer Chaos

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(*a*) This was order'd by the Canon 22. of the Council of *Meaux*, in 845. Precariæ autem a nemine de rebus Ecclesiasticis fieri præsumantur, nisi quantum de qualitate convenienti datur ex proprio, duplum accipiatur ex rebus Ecclesiæ in suo tantum qui dederit nomine, si res proprias & Ecclesiasticas usufructuario tenere voluerit. Si autem res proprias ad præsens dimiserit, ex rebus Ecclesiasticis tripulum fructuario usu in suo tantum quis nomine sumat.

This Council therefore, to whom *Frà. Paul* seems to attribute the Institution of the *Precaria*, is not the Author of it. Its Decree being only a Confirmation of an Usage establish'd long before. Where is to be observ'd, That at first these *Precaria* belong'd to none but Ecclesiasticks, and that after Seculars were also admitted, and even before the reign of *Charlemaign*.

(*b*) *Platina* in the Life of *Formosus* I. saith, That by a strange Fatality the Sanctity of the Popes ended with the Spirit and Activity of the Emperors. And in the Life of *Benedict.* IV. *he saith*, Acciderat huic ætati, ut hominum industria in quovis genere virtutis consenescceret, nullis calcaribus adhibitis, quibus hominum ingenia ad laudem excitarentur.

of

of Impieties, and a general Preparative and Forerunner of the miſerable Revolutions and Diſorders which follow'd.

Popes were then excommunicated by their Succeſſors, and their Acts caſſed and annull'd: Not excepting the very Adminiſtration of the Sacraments (*c*). Six Popes were driven out and dethron'd by thoſe who aſpir'd to their Places (*d*). Two Popes put to Death (*e*), and Pope *Stephen* VIII. wounded

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(*c*) Stephanus VI. *(ſaith* Platina *in his Life)* tanto odio perſecutus eſt Formoſi nomen, ut ſtatim ejus decreta abrogavorit res geſtas reſciderit ------ Arbitror hoc odium ex ambitione ortum fuiſſe, cum jam eò deveniſſent Eccleſiaſtici, ut non coacti, ut antea, ſed ſponte, & largitionibus Pontificium munus obirent ---- Res peſſimi exempli cum poſtea fere ſemper ſervata hæc conſuetudo ſit, ut acta priorum pontificum ſequentes aut infringerent aut omninò tollerent.

Romanus I. did the ſame to *Steph.* VI. which *Stephen* had done to *Formoſus. Stephani Pont. decreta & acta ſtatim improbat, abrogatq;* ſaith *Platina* in his Life. And *Theodorus* II. authorized all the Acts of *Formoſus*, and favour'd his Adherents, ſaith the ſame *Platina.* John X. who ſuceeded *Theodorus* confirm'd alſo the Acts of *Formoſus*, and condemn'd the Judgment of *Stephen* VI. declaring, that he had unjuſtly annulled the Ordinances made by *Formoſus.*

Habito 74 Epiſcoporum conventu *(at* Ravenna) & Stephani res geſtas improbavit, & Formoſi acta reſtituit, dijudicans perperam a Stephano factum qui cenſuit eos iterum ordinandos eſſe, quos Formoſus ad ſacros ordines aſciverat. *(Platina in vita)* And *Sergius* III. reſtor'd all thoſe whom *Formoſus* had degraded from the Prieſthood. *(Platina.)*

(*d*) *Leo* V. was dethron'd and impriſoned by *Chriſtopherus*, who had been his domeſtick Chaplain. *Chriſtopherus* was dethroned in the 7th Month and put into a Monaſtery, the ordinary Exile of Churchmen in thoſe Days. *(Platina.)*

(*e*) *John* II. (according to *Panvinius*, who doth not reckon the Papeſs *Joan* with *Platina*) *in vinculo conjectus cervicali in eo conjecto, necatur* (Platina in vita) I do not find in this Hiſtorian, nor in *Panvinius*, the other Pope whom *Fra. Paula* mentions to have been kill'd.

in

in the Face, with so much Deformity, that he never after appear'd in Publick (*f*).

Theodora, a famous Courtizan, by the Interest and Faction she had then in *Rome*, got her profess'd Lover chosen Pope, who was call'd *John* X. (*g*). And *John* XI. was chosen Pope at the Age of 20 Years, the Bastard of another Pope (*h*), dead 18 Years before. And in short, such a series of wild Disorders gave occasion to Historians to say, That *those Times produc'd not Popes, but Monsters* (1).

Cardinal

(*f*) Stephanus VIII. ut Martinus refert, in seditione mutilatus, turpiter aliquandiu vitam duxit, cum ob inhonesta vulnera (*probably the Nose and Ears were cut off*) prodire in publicum erubesceret. (*Platina in vita.*)

(*g*) This History is related by *Luitprand, lib.* 1. *cap.* 13. *Onuphrius Panvinius* saith, that this Pope was not the Son of Pope *Sergius* III. as *Platina* tells us.

(*h*) *Viz.* of *Sergius* III. and of *Marozia*, Daughter of the Curtezan *Theodora*, who prostituted her Daughters to the Popes.

Joannes II. (*saith* Panvinius) Sergii Papæ & Marociæ nobilissimæ inter Romanos fœminæ (*she was Widow of* Guy *Marquis of* Tuscany) filius matris, quæ tunc in urbe potentissima erat, authoritate & studio successit —— post Leonem VI. & Stephanum 7. *Platina* calls him *John* XII. Joannes XII. patria Romanus, patre Sergio Pontifice, &c.

(1) Ubi cum ipsis opibus, (*saith* Platina *in the Life of* Benedict IV.) Lascivire cæpit Ecclesia Dei, versis ejus cultoribus a severitate ad Lasciviam, peperit nobis tanta Licentia peccandi hæc Portenta, a quibus ambitione & largitione, sanctissima Petri sedes occupata est potius quam possessa. Baronius *calls these Popes*, sedis Apostolicæ invasores, non Apostolicos, sed Apostaticos an anno 908.

Fra. Paolo makes a very judicious Reflection on the Disorder of Elections in those times. I have not found, saith he in one of his Letters, Reasons sufficient to prove the Truth of the History of Pope *Joan*, no more than I have met with any to convince me of the contrary. However, to speak sincerely, I incline to the Opinion of its being false, but not for its Absurdity, that Age producing things as extraordinary as a Lady's being Papess.

The Persecutions rais'd by many of the Popes against the Memory

Cardinal *Baronius*, being under ſome Difficulty how to treat theſe Corruptions, ſaith, That in thoſe Days the Church indeed was for the moſt part without a Pope, but not without a Head; its ſpiritual Head CHRIST being in Heaven, who never abandons it.

In Effect it is certain, that CHRIST hath never yet forſook his Church; neither can his Divine Promiſe which he hath made us fail, That he will be with it even to the End of the World (*k*.)

And on this occaſion it is the Duty of every Chriſtian to believe with *Baronius*, that the ſame Calamities which happen'd in the World at that time, hath happen'd alſo at another: And, that as the Aſſiſtance of CHRIST alone preſerv'd the Church in thoſe Times, ſo hath he afforded that Shield of Defence to his Church, and will continue it to her in all the like Events and Accidents of this World: So that a Pope was not neceſſary to the Exiſtence of a Church, even tho' there ſhould never more have been a Pope (2).

A Man may eaſily make a Judgment to himſelf how the reſt of the Churches of *Italy* in thoſe times

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Memory of their Predeceſſors, whoſe Acts they annull'd, and even in Councils, being things of no leſs Conſequence. Beſides where is the great Difference betwixt making a Woman Pope, and a Child of 11 Years of Age, ſuch as *Benedict* IX. was: Not to mention *John* XI. and XII. who were little older.

(*k*) Rogabo Patrem, & alium paracletum dabit vobis, ut maneat vobiſcum in æternum ----- Non relinquam vos orphanos. *Joan.* 14. Et ecce ego vobiſcum ſum omnibus diebus, uſq; ad conſummationem ſeculi. *Matt. ultimo.*

(2) Plane (*ſaith* Baronius ad anno 908.) opus Dei eſſe Romanam Eccleſiam, quæ tot admotis facibus non potuerit ad interitum uſq; conſumi, & ad nihilum redigi, facti evidentia declaravit. Stetit ſane, ſtabitq; ſemper immobilis de fede Petri, ſententia ac promiſſio Chriſti, quod portæ Inferi non prævalebunt adverſus eam.

were

were treated, in considering the State of all the other Members of a Body, when the Head is distemper'd.

But the general State of the Church was then, in Truth, every where else as deplorable. Princes gave Bishopricks to their Soldiers, and even to little Children. Count *Herebert*, Uncle to *Hugh Capet*, made his Son Archbishop of *Reims* (3); and Pope *John* X. confirm'd it.

In those Days no Man went to *Rome*, through the mistaken Motives of Conscience or Devotion; but if he design'd to make bold with the Canons and Usage of the Church, and found not Interest enough in his own Country to support him in it, he presently had Recourse to *Rome*: So it was not the Observers of the Laws of the Church, but the Breakers of them, whose Business lay chiefly at that Court, where a Man's Faults were his Qualifications for all sorts of Dispensations; and where the Apostolick dispencing Power stood ready to give Refuge and Shelter to all the Purposes of Ambition and Avarice.

Popes of such Characters, as we have above describ'd, made no Distinction betwixt any Actions, good or bad, that were in their Power; nor deterr'd

(3) Post obitum ipsius (*saith* Flodoard, *who was near his Cotemporary*) Heribertus Comes Remis venit advocans Abbonem Episcopum Suessionicum, & Bovonem Catalaunicum, quibus sibi junctis, tractans super electione Rectoris hujus Remensis Ecclesiæ, tam Clericos quam Laicos ad voluntatem intendere fecit. Sequentes igitur ejus concilium, ne forte per extraneas personas Episcopatus divideretur, eligunt filium ejus nomine Hugonem, qui nec adhuc quinquenii tempus expleſſet *lib.* 4. *Hist. Remensis*, *cap.* 20.

Quod in tanta Ecclesia (*saith* Baronius) male fuit a malo Principe (*John* 10.) usurpatum in exemplum citò transiit aliorum, ut complures hujus seculi Principes sibi sanguine conjunctos adolescentulos in summas Cathedras curaverint promovendos ad anno 925.

by

by the Wickedneſs of them; conſidering every Opportunity of engaging great Men in their Intereſts, as an Encreaſe of their own Power: And finding their Intereſt in maintaining vigorouſly what they had obtain'd, and the People, either through Simplicity or Fear, were aw'd into an Approbation of what they could not hinder: From hence grew the Opinion, That an Approbation from the Court of *Rome* repair'd and cancell'd all Errors.

CHAP. XX.

IT had been reaſonable to imagine, that the little Care the Clergy ſhew'd of ſpiritual Affairs, would have cool'd the Zeal of ſecular Men in their Bounties to the Churches, and conſequently have put an End to the Growth of their Wealth: But it took another Turn, for with a ſupine Neglect of Spirituals, the Spirit of defending their Temporals ſeem'd to riſe in Proportion.

The new Expedient they had found (for before it was not in uſe on theſe Occaſions) of turning the ſpiritual Arms of Excommunication to the vindicating all their diſputed Rights about their Temporals, and recovering ſuch as had been loſt by the Negligence of their Predeceſſors, was a Weapon they manag'd with ſuch Succeſs, that nothing ever became more terrible to the People, than thoſe Cenſures, which at firſt had only been employ'd in the Chaſtiſement of Sinners: And it was aſtoniſhing, to ſee Numbers of Officers and common Soldiers, guilty of ſo many Rapines, and withheld by no Remorſe from the moſt flagitious Crimes, ſhould be ſeiz'd in an Inſtant with a Reſpect towards the Church, which look'd like a Charm, and guarded it againſt Sacri-

ledge, on the bare Apprehensions of its Censures. Hence it came, that many People of small Consideration and Fortunes, to skreen themselves from the Violence of that Power, found it the easiest way to make a Deed of Gift of their Estates to the Church, and make themselves her Subjects; on Condition that the Donor should be re-invested with it as a Fief, reserving a small Acknowledgment.

Thus the Church's Title became a Safe-guard to those who were too weak to defend their Estates from the Great-men any other way; which the most Powerful dar'd not to touch, when once they became Signories of the Church. And when ever the Male Line of these Feudatories came to fail, which was a common Accident, where Wars, and popular Seditions were so frequent, the Succession of Course fell to the Church.

CHAP. XXI.

QUESTION I.

HAving hitherto consider'd the Methods, whereby the Church acquir'd her real Estates; and on what Foundation the decimating the Estates of the Laity came to be an establish'd Right in the Church, it will here be requisite, before we proceed farther, to resolve a Question controverted in our Days, Whether the Estates of the Church be held by a Divine or Human Right, and to whom of Right they belong?

The receiv'd Opinion distinguishes betwixt the Church's Title to Goods, which come by Will or Donation,

Donation, and that which ſhe hath to Tenths, Firſt-fruits, and other Offerings.

As to real Eſtates, it is agreed by all, that wherever they are found, they ought to be call'd temporal Goods, and that the Church enjoys them by human Right; ſeeing it is certain, and as we have already ſhewn, that after all Communities and Aggregate Bodies had been prohibited from acquiring immoveable Eſtates, the Church, firſt by Permiſſion, and then by Conceſſion from the Emperors, obtain'd that Power.

Agreeable to this is the Canon, *Quo Jure*, *Diſt.* 8. wherein it is declar'd, to be only by Virtue of human Laws, that it is ſaid, This Inheritance is mine, or this Servant belongs to me; and that without which, neither Church, nor any Perſon whatſoever can be ſaid to have a Property in any thing (*a*).

It cannot be doubted, but that the Diviſion of Eſtates derives its Authority from the Civil Law, or that the various Ways of transferring them from one Poſſeſſor to another, by Will, Donation, and all manner of Contracts, are of human Inſtitution.

There have been Examples of Kingdoms and Republicks in the World, to whom Wills, and Teſtaments were things unknown: The *Roman* Law allows the Privilege of making them only to *Roman* Citizens: And it is not conceivable, that the Means of acquiring a Thing ſhould be of human Right, and the Enjoyment and Poſſeſſion of it ſhould be of Divine Right.

Whenever the Title to any Gift or Bequeſt to the Church, happens to be conteſted, it is decided by

(*a*) Jure humano dicitur, hæc villa mea eſt, hæc domus mea, hic ſervus meus eſt. Jura autem humana, jura Imperatorum ſunt ---- Tolle jura Imperatorum & quis audet dicere, mea eſt illa villa, aut meus eſt ille ſervus, aut domus hæc mea eſt.

human Laws; and if it be adjudg'd in Favour of the Church, it is by Authority of the Laws she must be secur'd in the Possession.

But to insist no longer upon a Point, which seems to be generally given up, we will leave it, with only this Inference, which may very clearly be made upon the whole Question, That whether the Exemptions which the Church Estates enjoy, are owing to a Divine or Human Right, yet seeing both the Possession, and the means of obtaining it, proceed both from the same Law; and that the Lawyers say, that Tenures of Servitude, or Freedom and Dominion, all derive their Right from the same Law: It would be a manifest Contradiction to say, That the Church might hold an Estate, for Example, *Jure Veneto*, by the Law of *Venice*, and yet that Estate should claim to be free and independent by another Right.

As to the Question concerning Tithes, there are two Opinions, one of the Canonists singly, the other of Divines and Canonists, who study the holy Spripture, and the Canons together.

The Canonists say, That Tithes are of Divine Right *; because in the Old Testament GOD gave them to the *Levites* (*b*): And we have no reason to be surpriz'd at their manner of reasoning, who are so little conversant in reading the Scriptures; neither is the Study of the Mysteries of the Christian Religion any part of their Profession.

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* *Covaruvias* is not of this Opinion. *Vide chap.* 18. *lib.* 1. of his *variarum Resolut.*

(*b*) Filiis Levi dedi omnes decimas Israelis in possessionem pro ministerio, quo serviunt mihi in tabernaculo fœderis---- Decimarum oblatione contenti, quas in usus eorum & necessaria speravi. *Num.* 18.

De filiis Levi sacerdotium accipientes (*saith St.* Paul) mandatum habent decimas sumere a populo secund. legem. *Heb.* 7.

GOD,

GOD, by the Miniſtry of *Moſes*, gave to the *Jewiſh* Nation a Law, which both in the Ceremonial and Judicial Part, was deſign'd to be the Municipal Law of that Nation, until the coming of JESUS CHRIST, who was to abrogate and annul all its Force (*c*). So that in Truth the Law of Tithes is a Divine Moſaical Law, binding only to the *Jewiſh* People at that Time, but not a Divine-Natural Law, nor Chriſtian, and conſequently binding to no Man now.

The Legiſlature of any Government may enact the ſame Laws with thoſe of Moſes, but they cannot be ſaid to be as binding, nor to carry the ſame Authority, nor can they be call'd Divine, but meerly Civil Political Laws of the Prince who conſtituted them.

There was a Divine Moſaical Law, that a Blaſphemer ſhould be kill'd, but this obligeth no more now, neither doth he ſin, who puts it not in Execution. The Prince may make a Law to puniſh Blaſphemy with Death, and it would be a juſt Law, and what deſerves to be ſtrictly obſerv'd; but this would not make it a Divine Law, tho' GOD gave it heretofore to the *Jews* (*d*).

In theſe and many other caſes, where the Canoniſts fly to the Old Teſtament, to defend the Intereſts they have in aſſerting the Divine Right, we muſt take care to point out the Sophiſtry, and to

(*c*) Tranſlato ſacerdotio, neceſſe eſt, ut & legis tranſlatio fiat ---- Reprobatio fit præcedentis mandati propter infirmitatem ejus & inutilitatem, *Heb.* 7.

(*d*) Dominus locutus eſt ad Moyſen, dicens, Educ Blaſphemum extra caſtra, & ponant omnes qui audierunt, manus ſuas ſuper caput ejus, & lapidet eum populus univerſus. Et ad filios Iſrael loquens: Homo qui blaſphemaverit nomen Domini morte moriatur, lapidibus opprimet eum omnis multitudo. *Levit.* 24.

make the proper Distinction in our Answer, which is, That whatever is of Natural or Christian Divine Right, is binding to us; but not that which is of Mosaical Divine Right; so that if a Prince or Government should make a Law exactly the same with that of *Moses*, it will however be only of human Right.

I cannot here forbear doing that Justice to the Understandings of these Doctors to affirm, That there is much more of Artifice than Ignorance in what they say on this Subject, to gain Credit with weak and unwary People, and to give a Sanction to their Pretensions of the strongest Title in the World, which is, the *Divine Right*. But here they seem to me, to stand convicted, and to be left without Reply. For in the same Text of Scripture, where GOD commands the Tenth to be given to the *Levites*, he also commands, That they shall not possess any Land or real Estates; and that they shall content themselves with the Tithes only (*e*). If therefore the People be oblig'd by this Command to pay Tithes, the *Levites* are under the same Obligation to take no Possessions of Inheritance.

We find also in the same Place, That GOD granted them only the Tenths of the Fruits of the Earth (*f*), and nevertheless the Canon Laws ordain the Payment of Tythes also out of all

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(*e*) Dixit Dominus Aaron. In terra eorum nihil possidebitis, nec habebitis partem inter eos. *And a little after it is said*, nihil aliud possidebunt, decimarum oblatione contenti. *Num.* 18.

Non habebunt sacerdotes, & Levitæ partem & hæreditatem cum reliquo Israel, quia sacrificia Domini, & oblationes ejus comedent, & nil aliud accipient de possessione fratrum suorum, *Deut.* 18.

(*f*) Omnem Medullam olei, & vini, ac frumenti tibi dedi, *saith GOD to* Aaron, universa frugum initia, quas gignit humus, & Domino deportantur, cedent in usus tuos.

Merchan-

Merchandize, out of the Soldiers Pay, out of Hunting and the Sports of the Field, and out of every thing gain'd by any kind of Labour and Industry whatsoever.

If GOD have oblig'd the *Jews* to the Payment of no more than Predial Tythes, then it must be granted, that Personal Tithes are only a human Law.

All the Divines, to a Man, and with them many of the Canonists agree, it to be a Precept of the Divine Natural Law, that he who administers at the Altar should live by his Ministry (*g*). As it is an express Command of JESUS CHRIST in the Gospel, that the Minister, who preacheth the Word of GOD to the People (*h*), should be maintain'd by his Ministry. But the Proportion of the Allowance is not determin'd, but varied according to the Number of Persons, who share it, and the Circumstances of Time and Place, which make that too much at one time, which would be too little at another. Therefore the Ministers of CHRIST have a Divine Right to a Part, but whether it be a Tenth or a Twentieth Part, more or less, is determined by human Laws, or by Custom, which is many times as powerful.

And where it is said in some of the Decretals, That Tithes were instituted by GOD himself, or that the Payment of them is of Divine Right: In that Sense a certain Part is taken for an uncertain,

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(*g*) Filiis Levi, *saith GOD*, dedi omnes decimas pro Ministerio, quo serviunt mihi in tabernaculo fœderis. *Num.* 18.

(*h*) Dominus ordinavit iis, qui Evangelium annunciant, de Evangelio vivere, 1 *Cor.* 9. Si nos vobis spiritualia seminavimus, magnum est, si nos carnalia vestra metamus? *ibid.* Qui bene præsunt Presbyteri, duplici honore digni habeantur, maxime qui laborant in verbo & doctrina —— Dignus est operarius mercede sua, 1 *Tim.* 5.

and so by the Tenth is understood such a Part as is reasonable and necessary: And as GOD hath instituted Tythes in the Old Testament, human Laws have, by that Example, instituted them in the New. So that we may make this general Conclusion, That all Ecclesiastical Estates, of what kind soever, are in his Power, who is the Patron, and possess'd by Virtue of human Laws.

Nor let any Man object that this undetermin'd Part is due by the Divine, Natural, and Evangelick Law. For there is a great Difference, as the Lawyers well observe, betwixt a thing that is due, a Debt, which may be satisfy'd by Payment of the Value; and that of which a Man hath the Demeasn or Fief, as chief Lord. This last, say they, may be justly demanded, [*actione rei vindicationis*] nothing but the same individual Thing can make Satisfaction, and nothing in Lieu of it can be deem'd an Equivalent: Whereas the Creditor can only prosecute his Debt by personal Action, the Debtor being oblig'd to pay the Value of the Debt only, but not in this or that individual Thing, or in any particular Species.

By the Resolution of this Question, it is easy to determine, whether Benefices be *Jure divino*, or *Jure positivo*: For if real Estates and Tithes be of human Institution, it is necessary that the Benefices consisting of these be held by the same Title. And to sum up all, If the real Estates of the Church remain'd in Common for so many Years, and not divided into Benefices and Cures, as is already declar'd; it is then undeniable that Benefices are of human Institution. But as the World is too well agreed in this, to require any farther enlarging on this Argument, I shall only add, that tho' these Considerations may appear too subtle, and too refin'd, the Sequel of this Discourse will convince the Reader, they are no more than necessary.

QUES-

QUESION. II.

THE Deciſion of the firſt Queſtion opens the Way to the ſecond Inquiry, Who is the Owner of the Eccleſiaſtical Eſtates? By which I intend only real Eſtates, reſerving to ſpeak of the Fruits and Revenues in the fourth Queſtion (1). For if they be poſſeſs'd by Virtue of human Laws, we have only to find to whom the Laws have granted them. Some will ſay they are GOD's, and who can doubt it, *the Earth and all that is contain'd therein is the LORD's* (*a*). But in this Senſe the Goods of the Church are no more GOD Almighty's, than every thing elſe in the World.

The Dominion of GOD is univerſal, but a Sovereign Prince hath another Dominion, which, according to *Seneca*, may be call'd the Dominion of Power (*b*); or according to the Lawyers the Dominion of Protection and Juriſdiction (*c*). Every private Man alſo hath his Dominion, which is that of Property, and the Subject of our preſent Inquiry.

Now it cannot be ſaid, That GOD, beſides his univerſal Dominion over all Things, hath alſo the Property of all Eccleſiaſtical Goods, in the ſame manner as a King hath an univerſal Dominion throughout his Kingdom; and yet hath a private

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(1) Which is towards the end of this Treatiſe. See *Queſt.* 4.

(*a*) Ad Deum excelſum, poſſeſſorem cœli & terræ, *Gen.* 14. Domini eſt terra & plenitudo ejus, orbis terrarum, & univerſi qui habitant in eo, *Pſalm.* 23.

(*b*) Ad Reges poteſtas omnium pertinet, ad ſingulos proprietas, *Senec.* 7. *Benef. cap.* 4. Cujus eſt (*ſaith* Pliny *the younger*) quicquid eſt omnium, tantum ipſe, quantum omnes habent. *Paneg.*

(*c*) Ditionis, non proprietatis, tuitionis non deſtructionis. Omnia regitis (*ſaith one* Simmacus, *addreſſing himſelf to Princes*) ſed ſuum cuiq; ſervatis. X. *Epiſt.* 54.

Property

Propriety in the Estate of his own Family. For the universal Dominion of a Prince may be encreas'd by the Addition of his private Property; but the Dominion of GOD hath an Universality, Excellent and Infinite, incapable of any Addition, or of being particulariz'd, neither can it possibly be communicated to any Creature. Thus GOD, being LORD of all these Goods, no Man can assume to himself, and say, *I who have the same Tribunal, the same Consistory, the same Jurisdiction with GOD, am also Lord*; for whatever Dominion any Man may have, in them, he is no less a Servant than the least of Mankind.

But there are others, who treat this Matter with more Freedom, and say, That the Pope is the Lord and Proprietor, and prove it by the Decretal of *Clement* IV. which declareth, That the Disposition of all Benefices belong intirely to him (*d*).

St. *Thomas* refutes this Opinion in saying, That the Pope may indeed be call'd the Principal Dispenser of all Benefices, but in no sort either the Lord, Owner, or Possessor of them (*e*).

Cardinal *Cajetan* adds for an Explication of this matter, That the Pope can neither give, nor, in any other manner whatsoever, dispose the Goods of the Church, than as right Reason shall direct, and without exceeding the Trust of Disposition repos'd

(*d*) Licet Ecclesiarum, Personatuum, dignitatum, aliorumq; beneficiorum Ecclesiasticorum plenaria dispositio ad Romanum noscatur Pontificem pertinere, *&c. Sexti lib.* 3. *tit. de Præbendis, cap.* 2.

(*e*) Quamvis res Ecclesiæ sint ejus, ut principalis dispensatoris, non tamen sunt ejus, ut domini & possessoris. 2*da.* 2*da. Quest.* 100. *art.* 1. *resp. ad object.* 7.

in

in him (*f*). And the reaſon he gives is very clear and convincing: Theſe Goods, ſaith he, at firſt belong'd to ſome one, who hath transferr'd his Right by Will or Donation: Now, it never was in any Man's Intention to make ſuch a Preſent to the Pope (*g*): And therefore the Property can never have been paſs'd to him.

And it is for this Reaſon, that the ſame Cardinal, and Pope *Hadrian* VI. agree, That the Propriety of all Goods belong to the Church; that is, to the whole Community of the Faithful in that Place, to whom they were left: So that the Propriety of the Goods in the *Roman* Church, belongs really to the whole Body of the *Roman* People.

(*f*) Papa non eſt Dominus, ſed Diſpenſator principalis pecuniæ Eccleſiaſticæ, ac per hoc pecunia Eccleſiæ non eſt ſua abſolute, ut poſſit ad libitum de ea diſponere. *(and then he adds)* Cum poteſtas Papæ, quo ad res temporales Eccleſiæ ſit poteſtas, non Domini, ſed Diſpenſatoris, conſequens eſt, ut plenitudo poteſtatis papalis, circa bona Eccleſiæ temporalia, non exeat limites poteſtatis diſpenſativæ ---- Ac per hoc non poteſt Papa ad libitum donare res Eccleſiæ, ſed poteſt tanquam habens apicem diſpenſatricis poteſtatis, multo plus de iiſdem diſpenſare, quam quicunq; alius proximus alicujus Eccleſiæ prælatus ---- Ex eodem fundamento, quod Papa non eſt Dominus, ſed Diſpenſator, ſequitur quod de plenitudine poteſtatis non poſſit ad libitum dare bona Eccleſiæ cui voluerit; ſed tenetur diſpenſare, ut recta ratio ſuadet. *In Comment. ad* 2. 2. *Queſt.* 100. *art.* 1.

(*g*) Nec Papa, nec aliquis Prælatus, eſt Dominus rerum Eccleſiæ, Eccleſia ipſa eſt Domina; quia Donatores non donant, & transferunt jura ſua in Papam, aut Prælatum, ſed in Eccleſiam Romanam, vel talem. (It is moſt certain, that Princes would never have given ſo many Lands and Revenues to the Church, if they had foreſeen, that the Popes would have become the Maſters of them themſelves, and have turn'd the Profits of them, one Day, to the making War againſt the Donors.) Nec putes, *adds* Cajetan, propterea quod Papa habet plenitudinem poteſtatis Eccleſiaſticæ, ob hoc poſſit de bonis Eccleſiæ diſponere, ſicut poteſt Eccleſia: quoniam plenitudo poteſtatis Eccleſiaſticæ intelligitur in ſpiritualibus tantum. *Coment.* 2*dæ.* 2*dæ. ad art.* 8. *Queſt.* 43.

Every

Every one knows, that a Community or Society is as capable in Law of poſſeſſing an Eſtate, as any private Perſon: It is in that Senſe ſaid, that ſuch a thing belongs to ſuch a City; that is, to no particular Perſon, but to the whole People together: And it is the ordinary Stile of Wills to ſay, I leave to the School of St. *Roch* (1), to the Convent of the *Cordeliers* (2), *&c.* And of this, the ancient Uſage of the Church, and the Stile in which the Canons run, are a plain Confirmation.

It is not to be doubted, but that theſe Eſtates being to go under ſomebody's Name, are very properly aſcrib'd to him who is the Proprietor: So all the Canons, and ancient Uſage of the Church having always called that which belongs to the Churchmen, the Eſtates of the Church; ſhe is therefore the Proprietor. And this agreeth with thoſe who ſay, theſe Eſtates are Jesus Christ's; for all Chriſtian Churches, from very ancient times, have taken their Denominations not only from the Name of ſome City, but from their firſt, or moſt famous and eminent Biſhop: So the *Roman* Church is call'd St. *Peter's*, the Church of *Alexandria* St. *Mark's*, that of *Ravenna* the Church of St. *Apollinarius*. From hence the Eſtates of theſe Churches have follow'd the ſame Faſhion, and taken alſo the Name of theſe Saints; and the Eſtates particularly belonging to the *Roman* Church are call'd St. *Peter's*: Which gave occaſion to that way of ſpeaking among the ancient Writers, The Patrimony of St. *Peter*, the Lands of St. *Peter*, the Patrimony of St. *Apollinarius*, *&c.*

(1) The Fraternity of Painters in *Venice*.

(2) The Author calls them *de Fratii*, which is the Name of the great Convent of *Cordeliers* in *Venice*.

And

And becauſe CHRIST is the univerſal Head, and Protector of all Churches, all that belongs to the Church in general, or to any particular one, is call'd the Patrimony of JESUS CHRIST; which is the ſame thing as to ſay, the Patrimony of the Church whereof CHRIST is the Head: And in the ſame Senſe the Eſtates of the Republick of *Venice* are call'd St. *Mark*'s, from a Republick which bears the Name of that Saint.

In truth all the Acquiſitions of the Church, when her Eſtates lay in Common in every Dioceſs, belong'd properly to the Univerſal Church, to whom all Donations and Legacies were made. It is certain, they could only be acquir'd by thoſe, whom the Laws made capable of taking them. The Laws of *Conſtantine* granted this Priviledge to Chriſtian Communities or Societies, that is, to all the Body of Chriſtians inhabiting in the Cities to which they were granted. The Dominion or Propriety thereſore of theſe Eſtates is in theſe Communities.

But after Diviſions came to be made, and Benefices to be inſtituted, then follow'd Legacies and Donations to particular Churches, and frequently to ſome particular uſe of Piety. So that there is no determinating who is the Owner, Proprietor, or Patron of theſe Eſtates, and where the Right lies, without ſeeing the particular Diſpoſitions of the Wills and Donors.

To end this Argument upon the fulleſt Examination, it muſt be concluded, that the Prelates, and the other Eccleſiaſticks, are the Guardians, Adminiſtrators, and Diſpoſers of the Eſtates of the Church, to purſue and execute the Intention of the Donor or Teſtator, and to no other Purpoſe whatſomever: And that the Proprietor or Patron of them is the Perſon, or Community, to whom they have been ſo given or bequeath'd.

And

And therefore all Governors of the Church ought wi h conſcientious Care to review and ponder the Conditions of theſe Endowments ; for the Neglect of which, nothing but human Frailty can be pleaded. Nor ought any Man to imagine, that Preſcription or long Uſage can have any Force here, ſeeing no Man can pretend to any Benefit from Preſcription, where Integrity and good Conſcience is wanting. And how can any Claim be laid to theſe, where everyMan knows, and is conſcious, that theſe Eſtates have not been bequeath'd by the Donors, to be employ'd as we frequently find them.

QUESTION III.

BUT who ſhall be the Proprietor of thoſe Eccleſiaſticks Eſtates, whoſe Inſtitution is not known? By the Natural and Civil Law, an Eſtate falls to the Community or Publick, when particular Owners fail ; and by Conſequence, in this Caſe, it will fall to the Church : Which in ſhort, is no more than to ſay, That the Beneficiaries are the Diſpenſers of the Eſtates of their Benefices, that the Proprietor is he to whoſe Favour the Donation or Will is made ; and if he be not known, the Right reſts in the Church.

It is no Anſwer to ſay, that there are Laws both Civil and Eccleſiaſtical, which forbid the Alienation of theſe Eſtates ; for the Minor or Pupil is the true Proprietor of his Eſtate, and yet hath no Power to alienate. The Propriety or Dominion of a thing, in its largeſt Extent, is a Right of doing whatever a Man pleaſes with his own, as far as the Law allows ; which lays a Reſtraint on ſome ſort of Proprietors, who need direction ; of which Communities and Societies of People are one.

We

We are not to wonder, if in Queſtions of this Nature, in which the Pope is determin'd to be the abſolute Proprietor of all Benefices and Eſtates, belonging to the Church, there ſhould be ſo many modern Writers, ready to maintain Opinions ſo contrary to thoſe of Antiquity, and to the Cuſtoms and Inſtitutions, which draw their Original from the Apoſtles themſelves, and other Apoſtolical Men. For whereas St. *Cyprian* very ſenſibly complains, as of one of our human Imperfections, that intereſted Men ſet themſelves to adapt their Doctrine to the depraved Manners and Cuſtoms of the Age; when, on the contrary, theſe ought to be regulated by good Doctrine and good Laws.

To which this Obſervation may be added, That in the Courſe of ſo many Ages, there never were any Novelties introduc'd, even in Religion, which have not inſtantly found their Defenders. And therefore it is no wonder, if this happen, where new Cuſtoms and new Methods are introduc'd, contriv'd and made ſubſervient only to the Ends of acquiring Riches, and even to authorize the Purſuit of worldly Intereſts, to which human Nature is ſo addicted.

CHAP. XXII.

THE extream Diſorders and Confuſion, which the great Variety and Changes of ſo many Kings and Emperors in thoſe Times brought upon *Italy* in the Civil Government, affected no leſs the Eccleſiaſtical Affairs: The Biſhops and Abbots being ſometimes made by the Princes, ſometimes intruding themſelves by their own Authority; the other Miniſters of the Church being alſo made, either

ther by those who govern'd the Cities, or by the Bishops; and sometimes again by those, who had the Power in their Hands, or the Favour of the People, possessing themselves of the Benefices.

In the Year 963, *Otho* of *Saxony* * enter'd *Italy*, and subdu'd it by Arms, and in order to settle some Form of Government there, he assembl'd a little Council of Bishops, wherein he depos'd Pope *John* XII. tho' he was of an illustrious Family, and had great Interest and Dependencies in *Rome*: But he had been made Pope at 18 Years of Age, and had dishonour'd the Pontificate by Adulteries, Perjuries, and the rest of his Behaviour, little suitable to his Character (*a*).

Otho oblig'd the *Roman* People, and Pope *Leo* VIII. who had been put in the Place of Pope *John*, to give up to the Emperors the Pretensions to the Right of Electing the Popes (*b*), and the other Bishops in *Italy*. For 36 Years, until the Year 1001, this Prince, his Son, and his Grandson, of the same Name, preserv'd this Right in themselves: And of 12 Popes, which were within that Space, two were

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(*a*) Jonannes XIII. (Platina *calls him not the* XII.) Patris Alberici potentia fretus, Pontificatum occupat, homo sane omnibus probris & turpitudine contaminatus, venationibus magis, siquid temporis a Libidinibus supererat, quam orationi deditus. *And some Lines after*, Pontificium munus humeris suis nequaquam conveniens sibi desumit.—Otho, compositio aliquantum statu Civitatis Concilium indicit, convocatis Episcopis Italiæ, quorum judicio vita sceleratissimi hominis dijudicaretur.

(*b*) Cives vero (*saith* Luitprand, *chap. 6. towards the end*) sanctum Imperatorem cum suis omnibus in urbem susceipiunt, fidelitatemq; promittunt, hæc addentes, & firmiter jurantes, nunquam se Papam electuros aut ordinaturos præter consensum, ac electionem Domini Imperatoris Othonis Cæsaris Augusti, filii ipsius Regis Othonis. *Vide cap.* 11.

* This was *Otho* the Grandson of the Emperor, sirnam'd the *Fowler*.

made

made by the Prince peaceably, and without Oppoſition, the other not without Tumults and Diſorders: Which occaſion'd one Pope to be carry'd Priſoner into *Germany* by *Otho* I. (2), and another by *Otho* II. (3). There was alſo another Pope who was ſtrangl'd by one who aſpir'd to his Dignity: Another robb'd the Treaſury of St. *Peter*, and fled (*c*): Another went into voluntary Baniſhment (*d*). So that conſidering we meet with ſeveral Popes in thoſe Days, who as *Baronius* obſerves, are plac'd in the Catalogue only to make up the Number (*e*), the Church had then in Effect no other Head but JESUS CHRIST himſelf.

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(2) Benedict V. *elected ſeditiouſly by the Faction and Kindred of* John XII. Cum Imperator (*ſaith* Platina) hanc electionem nequaquam probaret & Romanos compulit pulſo Benedicto, vel dedito potius Leonem ſuſcipere ----- Otho in Germaniam rediens ſecum Benedictum ipſum duxit qui non multo poſt dolore animi apud Hamburgum moritur, ubi relegatus erat. *Vide Luitprand, cap.* 11.

(3) Benedictus VI. *or rather according to* Panvinius, *the* V*th, ſeeing he who went by this Name, and was choſen by the Faction of* John XIII. *was Antepope, as having been choſen in the Life-time of* Leo VIII. *which* Leo *had been lawfully choſen.* Benedictus VI. (*ſaith* Platina) a Cintio Rom. cive præpotenti captus, in ſancti Angeli arcem includitur, eodemq; in loco non multo poſt ſtrangulatur.

(*c*) Bonifacius VII. (*ſaith* Platina *in his Life*) relinquere urbem coactus, precioſſima quæque E. Baſilica Petri ſubtrahens, Conſtantinopolim confugit, ubi tamdiu conſtitit, quo ad diveniditis, quæ ſacrilegio abſtulerat, magnam vim pecuniarum comparaſſet ---- Pontifex Rom. ſacrorum Pater & Rex, ſacra ipſa furto abſtulit; & qui vindicare ſacrilegia debuerat, tanti ſacrilegii factus eſt author.

(*d*) Joannes XVII. (*which ought to be* John XVI.) agitatus ſeditionibus a Creſcentio Conſule Romano imperium urbis ſibi vindicare conante, cupiditate hominis cedens, exulatum in Hetruriam abiit. *Platina in vita.*

(*e*) Qui non ſint, niſi ad conſignanda tantum tempora in Catalogo Romanorum Pontificum. *Scripti ad annum* 912.

But the other Bishops and the Abbots were made by the Emperors(*f*), without any Contradiction. And therefore upon the Death of a Bishop, his Staff and Ring were carried to the Emperor (*g*), who gave them as the Ceremony of Investiture, to the Person on whom he conferr'd the Benefice. And the new Bishop being consecrated by his Metropolitan, or by the neighbouring Bishops, went to take Possession: This is a Method yet observ'd in *France* and *Germany*. But other lesser Benefices were dispos'd by the Bishops or Abbots, on whom they depended; except when the Prince nam'd one to a vacant Benefice, and then it was never disputed: Or when he thought fit to recommend one to be provided for, when a Benefice should fall, which Expectative or Reversion was sure to be made good by the Bishop at the next Vacancy.

In this Method the three *Othos* govern'd the Affairs of the Church, and without any Controul from the Popes; tho' *Otho* II. had resided a

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(*f*) It was not that Elections were abolish'd, but only made null without Investiture from the Emperor. As *Hugh de Flavigny* observes, speaking of *Anselm de Lucca*, and of another Bishop.

Cum ergo, *saith he*, præstolarentur diem consecrationis suæ, venerunt nuncii Regis Henrici Romam, rogantes, ut contra morem Prædecessorum suorum Dominus Papa (*this was* Gregory VII.) eos consecrare vellet, qui Episcopatus electionem solam, non autem donum per regiam acceperant investituram. *In Chronico Verdunensi, pag.* 196.

(*g*) Rex autem uti volens authoritate, & consuetudine, & autoralibus Privelegiis Imperatorum, qui a Carolo magno per trecentos & eo amplius annos imperaverant sub 63. Apostolicis, dabat licitè Episcopatus, & Abbatias, & per annulum & per virgam. *Sigebertus in Chronico. ann.* 4. *Vide Crantz vandal. lib.* 6. *cap.* 25. *Gronem ep.* 8. *ad Richer. senonensem Wilielmum Tyrium de bello sacro, lib.* 1. *cap.* 13. *& Goffrid. vindocinensem. tractatu* 2. *pag.* 278.

long

long time at *Rome*, where he also died and was buried (*h*).

The Princes succeeding the *Othos* preserv'd the Right of conferring Bishopricks and Abbies, and even of Nomination to the other lesser Benefices, and of granting Reversions or Expectatives of Benefices before they were vacant: Until the Imperial Authority coming to diminish in *Rome*, the Church relaps'd into the former Disorders. For tho' the People, after having resum'd the Election of the Pope, elected three Popes very peaceably, there broke out some Sparks of Sedition and Tumult about the Election of *Benedict* VIII. (4), and *John* XX. (5), who were Brothers, and immediately succeeded one another; and after, in that Election of *Benedict* IX. their Nephew, who was chosen at 12 Years of Age, and who, among many other Enormities, made Sale of a part of the Popedom to one *Silvester* III. and another part to *Gregory* VI. (*i*). And all these three fill'd their Chairs in *Rome* at the same time, with so much more Scandal and Disorder, as this *Gregory* made use of Arms to maintain his Purchase (*k*); possessing himself of the Church of St. *Peter*, with a Body of Horse and Foot, not without much Slaughter. This brought the Emperor, *Henry* the

(*h*) Romæ moritur, & in vestibulo B. Petri (Paradisum vocant) labro porphyretico, quod adhuc introeuntibus ad lævam apparet honorificentissime sepelitur. *Platina* in the Life of *Benedict*. 7.

(4) The VII. according to *Onuphrius*.

(5) The XII. according to *Onuphrius* in *Chron. Pont. Rom.*

(*i*) Benedictus (*saith* Platina *in his Life*) Joanni Archipresbytero St. Joannis ad portam Latinam, qui postea Gregorius VI. appellatus est, Pontificium munus, ut quidam affirmant, vendidit. *And some Lines after*, Cum annis decem per intervalla sedem Petri occupasset, tandem moritur. Nec vacasse tum sedes dici potest, cum Pontificatum vendiderit.

(*k*) Vide Othon. Frising. ad anno. 1040. lib. 6. cap. 32.

Black, into *Italy*, who put *Benedict* to Flight, sent *Silvester* away, and banish'd *Gregory* into *Germany* (*l*), and depriv'd the *Roman* People again of the Power of Election (*m*).

After which he made three Popes successively, all *Germans*, who, without other Ceremony, took the Pontifical Habit and Ornaments. The third of these, who was *Bruno*, Bishop of *Toul*, having, by Virtue of the Emperor's Nomination taken the Habit of Pope at

(*l*) Has ob res (*saith* Platina *in the Life of* Gregory VI.) Henricus II. [*by the Account of the* German *Writers, it is* Henry III. *otherwise call'd* Henry *the black*] in Italiam cum magno exercitu veniens, habita synodo, cum Benedictum IX. Silvestrum III. Gregorium VI. tanquam tria teterrima monstra, abdicare se magistratu coegisset, Suideregum, Bambergensem Episcopum, cui Clementi XI. appellatio fuit, Pontificem creat.

As for *Gregory* VI. *Onuphrius* reckons him a legitimate Pope, affirming he was not elected till after *Benedict* VIII. *Silvester* III. and another nam'd *John*, whom *Benedict* had taken for his Collegue, after having driven out *Silvester* III. had abdicated the Popedom.

Quibus, *saith he*, proborum hominum precibus sacerdotium & suorum juri cedentibus, quartus sufrectus est Joannes Gratianus, Archi-presbyter S. Joannis ante portam Latinam Gregorius VI. vocatus, qui Cluniaci Pontificatu privatus, quo ab Imp. Henrico III. relegatus fuerat, mortuus est. *Annot. ad vit. Gregorii* VI. *And he* [Onuphrius] *explains himself yet more clearly in his Chronicle of the Popes.* Cum sponte abdicasset (*speaking of* Benedict VIII. *called the* IXth *by* Platina) in ejus locum factus est Gregorius VI. Joan. Gratianus Archi-presb. S. Joannis ante portam Latinam, qui imperante Cæsare Henr. III. Aug. sedit annum; coactus in concilio Sutrii (*a little City of the Patrimony of St.* Peter *in* Tuscany) ab Imp. Henrico III. congregato, abdicavit anno 1046 & ad monasterium Cluniacense relegatus, ibidem Paulo post obiit & sepultus est. *and then, before he names* Clement II. *whom the Emperor made be chosen in the Room of* Gregory, *he adds these four Words*, Schisma in Ecclesia Romana, *to make it be understood, that the Election of this* Clement *was not canonical.*

(*m*) Henricus, accepta a Clemente Imperii corona, Romanos in verba sua jurare coegit, Pontificum electioni se nequaquam interfuturos, nisi jussu Imperatoris id facere cogerentur. *Platina in vita Clement.* II.

Freisignen

Freiſingen (6), and continued his Journey as far as *Clugni*, *Hildebrand*, a Monk bred up in the Church of St. *Peter* at *Rome*, a Man of ſingular Addreſs, put *Bruno* upon an Artifice, to bring the Election back again to the *Roman* People. He advis'd *Brunon*, who had now taken upon him the Name of *Leo* IX. to habit himſelf like a Pilgrim, and enter *Rome* (*n*) ſo diſguis'd; by which he would render himſelf more agreeable to the People. *Leo* follow'd his Advice, and the People at his Entry proclaim'd him Pope. But this Precedent was of no more Authority, for it hinder'd not the Emperor, when *Leo* was dead, from chooſing *Geberard*, Biſhop of *Eichſtat* at *Mentz*, to be Pope, who forthwith took the Pontifical Habit, by the Name of *Victor* II (*o*). And this Emperor did not only then diſpoſe the Benefices, but made Laws againſt thoſe, who obtain'd them by Simony; pardoning paſt Faults, and impoſing Penalties for the future.

(6) A City of *Bavaria*, under the Archbiſhoprick of *Saltzbourg*.

(*n*) Cui Romam Pontificio habitu petenti, Abbas Cluniacenſis, & Hildebrandus Monachus, obviam facti, perſuaſere, ut depoſito Pontificali ornatu, Romam privatus ingrederetur, quod dicerent Henricum nullam creandi Pontificis poteſtatem a Deo habere; ſed ad Clerum, populumq; Romanum id pertinere. Motus his verbis Leo, depoſito Pontificio apparatu, privatus urbem ingreditur. At vero Rom. Clerus, ſuadente Hildebrando, eundem Brunonem in Pontificem eligit, eo libentius, quod omnem authoritatem eligendorum Pontificum ab Imperatore ad Clerum tranſtuliſſet. *Platina in vita.*

(*o*) Victor II. (*ſaith* Onuphrius *in his Chronicle of the Popes*) Suevus Germanus, Gebohardus, Comes Calbenſis, Epiſcop. Eichſtatenſis, Henr. III. Imperatoris Conſiliarius, & propinquus, creatus ab Hen. III. Moguntiæ, & coronatus Romæ, *ibid. April.* 1056.

CHAP. XXIII.

THO' during the Minority of the Emperor *Henry* IV. (1), Son of *Henry* the *Black*, the Popes were as yet created with the Consent of the Emperor's Tutors, and the Bishops and Abbots invested by him, with the Ring and Crosier-Staff; however the Popes were not wanting to take the Advantage of his Youth, and of the Dissentions which arose among the Tutors: For *Nicholas* II. made a new Constitution for the Election of the Pope, whereby the Cardinal-Bishops were to elect first; secondly, the other Cardinal-Priests; thirdly, the Clergy and the People; and in the last place, the

(1) *Platina* saith, that he had been design'd Emperor by *Hildebrand*, when he went to entreat *Henry* the *Black* on the part of the Clergy and *Roman* People, that he would give them the Bishop of *Eichstat* for Pope. *In the Life of* Victor II.

But *Henry* IV. had no Occasion to be chosen by *Hildebrand*, to succeed to the Empire, which was then Hereditary.

Cæsares (*saith* Goldastus, in repl. pro Imperio, cap. 18.) usq; ad Henricum V. legitima successione Imperium adibant, & Gregorius VII. (*who was this* Hildebrand) Pontificii Dominatus Auctor, Cæsarum successionem turbare primus sustinuit.

Tantum enim (*saith another* German *Lawyer*) post exciſam Cæsaris prosapiam, Imperatores eligi oportuit, id tamen nunquam contigisse Legitur, nisi Legitimus successor deficeret. Et Henricus Bambergensis (*this was the Emperor* Henry II. *formerly Count of* Bamberg) Othonis III. Sobrinus, hæreditario jure sibi imperium deberi, contra Colonienſem contendebat. *Lampad. Reipubl. Roman. Germanicæ, parte* 3. *cap.* 4.

And besides, how could *Hildebrand*, who was but an Envoy from the *Roman* People, make an Emperor, *Authoritate Legationis*, to use *Platina*'s Phrase, seeing the Pope himself had not this Power; and that, on the contrary, the Election of the Pope depended on the Emperor's Confirmation.

Emperor

Emperor was to be apply'd to for his Concurrence(*a*). But *Alexander* II. his Succeſſor, having been choſen after this Model, the Emperor would neither confirm him, nor admit the Excuſes which the Cardinals made him, by one expreſly deputed out of their own Body: And tho' they repreſented, that all they had done, had been to avoid a terrible Civil Diſſention, and that all had been carried with the higheſt Reſpect to the Emperor, ſeeing the Perſon elected was his Friend, yet he nam'd the Biſhop of *Parma* (2) to the Popedom, at the Inſtance of *Gerard* (3) of *Parma* his Chancellor.

But three Years after, Changes happening in the Imperial Court, and the Chancellor, *Gerard*, being diſplaced, the Biſhop of *Parma* alſo was depos'd, and *Alexander* acknowledg'd for Pope (4). And a League being form'd betwixt the *Bavarians* and *Saxons* in the Year 1072 againſt the Emperor, the Pope join'd himſelf to their Party, came into the League, and the next Year cited him to *Rome*, upon

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(*a*) Decernimus & ſtatuimus, ut obeunte hujus Romanæ Eccleſiæ Pontifice, in primis Cardinales Epiſcopi ſimul de electione tractantes, mox Chriſti Clericos Cardinales adhibeant: Sicq; reliquus Clerus & populus ad conſenſum novæ electionis accedat --- Eligatur autem de ipſius gremio, ſi reperitur idoneus, vel ſi de ipſa non invenitur, ex alia aſſumatur, ſalvo debito honore, & reverentia dilecti filii noſtri Henrici, qui futurus Imperator, Deo concedente, ſperatur, ſicut jam ſibi conceſſimus, & ſucceſſoribus illius, qui ab hac Apoſt. ſede perſonaliter hoc jus impetraverint. *Diſt.* 23. *C. in Nomine.*

(2) Who, according to *Onuphrius*, was of the Houſe of *Pallavicini.*

(3) *Platina* calls him *Gibert*, and ſays he was Governor of the Kingdom of *Italy*; *Onuphrius* calls him *Gibert* of *Corrigia.*

(4) *Platina* ſaith, that at the Emperor's Deſire he pardon'd the Biſhop of *Parma*, and gave the Archbiſhoprick of *Ravenna* to *Gibert* (or *Gerard*, who was afterwards created Anti-Pope, under the Name of *Clement* III. in 1080, and held the Seat until the Year 1101.

an Accusation of Simony (*b*), for hiving sold some Bishopricks. This Proceeding, as it was very astonishing, made much Noise in the World, no Pope having hitherto made so bold a Step. But the Memory of it was soon lost in the Death of *Alexander*, to whom succeeded *Hildebrand* the Monk (5), under the Name of *Gregory* VII.

The Emperor being yet young, and *Germany* all in Commotions, this Juncture invited the Pope to exclude him intirely from the Election of the Bishops and Abbots, and to that end sent him a Monitory; whereby the Emperor was forbid to concern himself any more in those Dispositions (6). To which the Emperor making a strong Opposition, the Pope excommunicated him, absolv'd his Subjects from their Oath of Allegiance (*c*), and depriv'd him of the

(*b*) Annus erat post mille 74. quo anno Colonienſis & Hermannus Bambergenſis Pontifices Romam miſſi ſunt, pecuniæ inde Regiæ debitæ colligendæ gratia: Qui Legatione peracta, Literas Alexandri Papæ detulerunt, regemq; vocarunt, ad ſatisfaciendum de Simoniaca hæreſi, cæteriſq; nonullis magna emendatione purgandis, ſuper quibus Romæ Rex erat delatus. *Krantz. hiſt. Saxon. pag.* 106. & *Abbas Urſperg. anno* 1072.

(5) The Author adds, of *Sienna*; but he was of *Soana*, a little Town in *Tuſcany*, under the Arbhbiſhop of *Sienna*, Gregorius VII. *ſaith* Platina, Patria Soanenſis. *And* Onuphrius *adds*, Ex Comitibus Pitilliani, & Soanæ, Monachus & prior olim Cluniacenſis. *In Chron. Rom. Pont.*

(6) *Platina* (ſaith that *Gregory)* forbid only his ſelling the Biſhopricks and Benefices, under pain of Eccleſiaſtical Cenſures. *In the Life of* Greg. VII.

(*c*) Platina *reports the Form of Excommunication of the Emperor* Henry IV. *in theſe Terms:* Beate Petre Apoſtolorum Princeps, inclina quæſo, aures tuas, & me ſervum tuum exaudi, quem & ab infantia educaſti, & uſq; ad hunc diem ab inimicorum manibus vindicaſti, qui me pro mea in te fide oderunt & perſecuti ſunt. Fateor ego, mihi tua gratia, non meis meritis Populi Chriſtiani cauſam demandatam eſſe, conceſſamq; ligandi & ſolvendi poteſtatem. Hac itaq; fiducia fretus, omnipotentis Dei nomine, Patris, Filii, & Spiritus Sancti, Henricum

the Administration of the Kingdom of *Italy* and *Germany*. He also made a League with the Rebels, and drew the Emperor's own Mother into it against her Son; excommunicating withal the Bishops, who were his Ministers, or in any Employments under him: And betwixt the Years 1076 and 1085, when the the Pope died in Exile at *Salernum*, he had excommunicated the Emperor four times, besides a General Decree he publish'd on the same Occasion, importing, That if any Clergyman should accept a Bishoprick, Abby, or any other Benefice from the Hand of a Layman, he should no longer be reputed of the Order, but be excluded from entering the Church: And that all Kings, Dukes, Marquisses, Counts, or any other Secular Lords or Powers whatsoever, who should be so hardy to pretend to give Investitures of Benefices, should incur the same Censures *(d)*.

The

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ricum Regem, Henrici quondam Imperatoris filium, qui audacter nimium, & temerariè in Ecclesiam tuam manum injecit, Imperatoria, Regiaq; administratione dejicio, & Christianos omnes Imperio subjectos juramento illo absolvo, quo fidem veris Regibus præstare consueverunt. *In the same Life.*

It is worthy observation, that it is by the Force of this Excommunication, that the Popes have begun to shake off the Yoke of the Emperors, whose Vassals they were, and which is more, to assume a Right of taking away the Crown from those, who always had the Power of deposing the Popes, whenever they abus'd the Pontifical Authority.

(d) Authoritate omnipotentis Dei decernimus, ut qui deinceps Episcopatum, vel Cœnobium, vel aliquid aliud Ecclesiasticum beneficium a Laico acceperit, nullomodo in numero Episcoporum, Abbatum, vel Clericorum censeatur: Eisdem quoq; censuris teneri volumus, & alligari Reges, Duces, & Principes, qui Episcopatus, Ecclesiasticasve dignitates, quod contra jus fasq; est, demandare alicui fuerint ausi ---- Præterea vero gratiam S. Petri, & ingressum Ecclesiæ his interdicimus, quousq; penituerint satisfecerintq;. *Ibidem.*

It

The Emperor, ſeconded by the greater Number of the Biſhops, who follow'd his Party, maintain'd his Cauſe ſo well, by Arms, againſt the Pope and his Adherents, that they ran a very imminent Hazard in the Conteſt. But Pope *Gregory*, who had before excommunicated the *Normans* as Uſurpers of the Kingdoms of *Sicily* and *Apulia*, now had Recourſe to their Aſſiſtance, took off their Excommunication, and made Conceſſions to them in every Point, which before he had made the Ground of his Quarrel. And if (upon this Agreement, and to ballance the Emperor's Power) *Robert* (7) King of *Sicily* and *Naples*, had not, from perſecuting the Pope, turn'd his Arms to his Defence, the Quarrel had ended intirely to the Emperor's Advantage (8). But the Pope, tho' at that time an Exile, with the Aſſiſtance of *Robert*, fail'd not to ſupport his Party.

It is to be obſerv'd, that *Gregory*, to colour his unjuſt Deſigns to take away the Right of Inveſtiture from Princes, rank'd it among ſpiritual Things: Tho' it was no more than a meer civil, and politick Ceremony, by which Princes put the Biſhops and Abbots in Poſſeſſion of the Fiefs and Eſtates, belonging to the Biſhopricks and Monaſteries: For to ſay, that becauſe Biſhops carry a Paſtoral Staff, which ſignifies a Spiritual Juridiction over their Flocks, and wear a Ring on their Finger, as a Type of their Marriage Contract with their Church, that it therefore looks as if Princes would pretend to convey ſpiritual Power, which they have not: This is a ſophiſtical Interpretation, which confounds the Temporalities of the Benefice (of which the Prince, as firſt Proprietor, and Repreſentative of the People, hath the Diſpoſal.) with the Spirituals, which cannot be communicated but by the Impoſition of thoſe Hands, who conſecrate Biſhops. A Conſecration which would be of no Signification, and ridiculous, if the Inveſtiture of the Prince conferr'd ſpiritual Authority.

(7) Call'd *Guiſchard*, that is to ſay, *The Crafty*.

(8) *Matchiavel*, lib. 1. Hiſt. of *Florence* ſaith, That from theſe Quarrels betwixt Emperors and Popes, aroſe the Factions of *Guelps* and *Gibelins*, of which the firſt took part with the Pope, the other with the Emperor.

And

And the continu'd Services of three of these *Rogers*, all Princes of the Family of *Robert*, to the two Successors of *Gregory*, both Monks of the same Order, procur'd from the last of these Popes, *Urban* II. a Present of the Bull of the Monarchy of *Sicily* (9) to one of the Princes, in Recompence of all the Services perform'd by the *Normans* to the holy See: By which Bull, he granted a larger Power over Ecclesiastical Affairs, than that which he attempted with so much Pains to extort out of the Emperor's Hands.

Against whom, Pope *Gregory*, besides his repeated Excommunications, and the frequent Rebellions which he stirr'd up and fomented, prevail'd even with the Emperor's eldest Son (10), to join in Rebellion

(9) Which declar'd him born Legate of the holy See, and as such, constituted him Judge of Ecclesiastical Causes. Tho' this Grant be Apocryphal, and intirely fictitious, in the Opinion of the Learn'd, yet the King of *Spain* and his Ministers fail not to take the Advantage of it, in its utmost Rigor, even to the excommunicating Priests, Monks, Abbots, Bishops, and Cardinals themselves, who reside in the Kingdom; and to attribute to themselves the Title of Most Holy Father. In the Year 1556 the Council of State of *Sicily*, which took upon itself the Quality of the sacred College, publish'd a Book, intitl'd, *The Monarchy*, with Design to authorize the Spiritual Sovereignty. Cardinal *Baronius* hath writ against it, *Tom.* II. of his *Annals*, but succeeded so ill, that the Vice-Roy of *Naples* and *Sicily*, and the Governor of *Milan* suppress'd this Volum, without any Regard to the Complaints made by the Cardinal, in his Letters to *Philip* III. King of *Spain*.

(10) *Conrad*, who took the Title of King of *Italy*, and made himself be crown'd at *Milan*: After which he married the Daughter of *Roger* King of *Sicily*, who gave him powerful Assistance against the Emperor his Father. So that one of our Advocates-General, of the last Age, whose Name I have forgot, had reason to say, speaking of *Gregory* VII. that under him, the *Romish* Church was truly the Church Militant.

And yet a *Jacobin* Friar of *Enghien*, was not sensible he made himself ridiculous in writing

bellion againſt his Father, who by this Means was almoſt driven out of *Italy*: And the ſucceeding Pope (11) purſuing the ſame Methods, in carrying on the War, pour'd out his Excommunications afreſh upon the Emperor, plied him with frequent Rebellions, ply'd his ſecond Son *Henry* againſt him, and perſuaded him likewiſe to take Arms. So that at length the Emperor, after great Viciſſitudes of Fortune, came to an Accomodation; but was deceiv'd in the Conditions, and in the end reduc'd to a private Life, by a Reſignation of the Empire to his Son (12).

After the Death of the Emperor *Henry* IV. *Paſchal*, the 4th Pope (13), (reckoning from *Grgeory* VII. who firſt took up the Spiritual Arms of Excommunications, to wreſt the Inveſtiture of Biſhops and Abbots out of the Emperor's Hands) held firſt a

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ting an Apology for St. *Gregory* VII. in anſwer to Father *Alexander*, a Learn'd Brother of the ſame Order. After which he might well think of making another for Pope *Julius* II. who ſo nearly reſembl'd *Gregory* VII.

(11) *Victor* III. who had been Abbot of *Mount-Caſſin*.

(12) Whom he had caus'd to be crown'd King of the *Romans* at *Aix-la-Chapelle*, *Anno* 1099.

This unnatural Son, ſeeing his Father come with a powerful Army to the Dyet held at *Mentz*, in *January*, *An.* 1106, went to meet him, and caſting himſelf at his Feet, begg'd Pardon, with all the outward Marks of a ſincere Repentance. The Emperor was wrought upon with this feign'd Submiſſion, and they both went together to *Bingen*, where the Son deluded the Father, raiſing a Jealouſy in him, That the Archbiſhop of *Mentz* might keep him Priſoner, if once he enter'd that City, before he was abſolv'd from his Excommunication: That therefore it were more adviſeable for the Emperor, to ſtay ſtill at *Bingen* while his Son went to open the Dyet at *Mentz*, and try to diſpoſe the Princes of the Pope's Party to a Reconciliation. The Emperor ſwallow'd the Bait, and his Son going without him to the Dyet, got himſelf proclaim'd Emperor, at the Requeſt of the Legate, who aſſiſted there in the Pope's Name.

(13) *Gregory* VII. *Victor* III. *Urban* II. *Paſcal* II.

Council

Council at *Guaſtalla*, a little Town in the Dutchy of *Mantua*, and then another at *Troyes* in *France*, in which he renew'd the Decrees of *Gregory* VII. and *Urban* II. importing, That no Laick ſhould intermeddle with the Collation of Benefices (14).

In *France* theſe Decrees were not admitted, but the King maintain'd the former Uſage, as alſo the Emperor *Henry* V. who was his Father's ſecond Son. This Prince, in the Year 1110, marching into *Italy* with an Army, in order to receive the Crown of the Empire, and the Pope having refus'd to crown him, while thoſe Differences were depending; they were compromis'd in this Manner, That the Emperor ſhould come to *Rome* to receive the Crown, and that no mention ſhould be made of the Inveſtitures on either Side, but as an Affair, which had bred ſo much Diſturbance, be dropp'd in Silence. The Emperor came accordingly, and the Pope believing himſelf the ſtronger, would have oblig'd him, contrary to the Agreement, to have renounc'd the Inveſtitures. But the Emperor, having taken a better Eſtimate of his own Strength, had the Courage to demand a Revocation of theſe Decrees, ſaying, He would not be leſs than *Charlemaign*, *Ludovicus Pius*, or the *Debonaire*, or other his Predeceſſors, who had enjoy'd the undiſputed Poſſeſſion of the Inveſtitures *: This enflaming the Quarrel, the Emperor ſeiz'd on the Perſons of the Pope, and the greater number of Cardinals, and carry'd them

(14) *Platina* in the Life of *Urban* II. ſaith, That one *Henry* Biſhop of *Soiſſons* reſign'd his Biſhoprick into the Pope's Hands, as not believing the King of *France*, who had preſented, had a Right to nominate; and took an Oath to the Pope (who reſtor'd the Biſhop to his Biſhoprick) That he would never aſſiſt at the Conſecration of Biſhops, which ſhould be preſented by Lay Hands.

* Vide Sigebert Gemblacens, in Chronico, Anno 1111.

Priſoners

Prisoners out of *Rome*. This produc'd a Treaty again, by which the Pope consented to crown *Henry* Emperor, and to yield to him the Collation of Benefices (*e*), and no more to excommunicate him for exercising that Power: All which, the Pope swore to observe. Then Celebrating Mass, the Pope took, and gave the Sacrament upon it, dividing the Host betwixt himself and the Emperor (*f*), pronouncing the most dreadful and execrable Imprecations on the Violaters of this Peace.

When the Pope return'd to *Rome*, he declar'd still he would observe it: Nevertheless, his Legates took the Liberty to excommunicate the Emperor, and two Years after, in the Year 1112, these Imprecations had so lost their Force, that he held a Council, in which he confirm'd the Decrees of the Popes *Gregory* and *Urban*, that none should receive Investitures from Lay Hands; and procur'd also the late Pacification with the Emperor to be annull'd

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(*e*) In Reconciliatione autem quæ facta est inter Imperatorem & Papam, (nam ipsum Papam cum Episcopis, & Cardinalibus ceperat) die Paschæ Henrico in Imperatorem coronato, post Lectum Evangelium, tradidit ei Papa ante altare Apostolorum Petri & Pauli, in oculis omnium Principum Privelegium de Investitura Episcopatuum, vel Abbatiarum tam per annulum quam per virgam scilicet ut regni ejus Episcopis, & Abbatibus, libere præterviolentiam & Simoniam electis, investituram Virgæ & annuli, conferat; post investitionem verò Canonicè consecrationem accipiant ab Episcopo ad quem pertinuerit. *Sigebertus in Chronico, Anno* 1111. *& Abbas Urspergensis, eodem anno.*

(*f*) Confirmatio pacis inter Apostolicum & Imperatorem, dum in Celebratione Missæ traderet ei Corpus & Sanguinem D. N. Jesu Christi: Domine Imperator hoc corpus Domini natum ex Maria Virgine, passum in Cruce damus tibi in Confirmationem veræ pacis inter me & te. *Sigebertus in Chronico anno cit. vide Jurétum in Notis ad Ep.* 236. *Yvonis Carnot. pag.* 195.

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and declar'd void, by that Council (15): And to leave no Doubt of its being ſo, he finally excommunicated the Emperor again, in the Year 1116.

Pope *Gelaſius* II. was immediate Succeſſor to *Paſcal*, and next after him, came *Caliſtus* II. betwixt whom and the Emperor the Conteſt ſtill laſted, and he was excommunicated ſucceſſively by them both.

Theſe three Popes not only made uſe of Excommunication, but found him Employment likewiſe in the ſeveral Rebellions, which they ſtirr'd up againſt him, and which were headed by *Lotharius* of *Saxony*, whoſe Arms had gain'd frequent Advantages againſt him. At length, the Emperor finding himſelf beſet with ſo many Difficulties, renounc'd his Claim to the Inveſtitures (*g*). Thus ended a Quarrel, which

(15) When the Emperor complain'd of the Excommunication thunder'd againſt him, ſome time after by the Council of *Lateran*, the Pope, *Paſcal*, made anſwer, That he had indeed promis'd, he, himſelf, never would excommunicate the Emperor, in Claim of the Inveſtitures, but never promis'd that he would not make him be excommunicated by a Council. To which the Emperor might have reply'd, That this Excommunication was an Act of the Pope himſelf, ſeeing he had confirm'd it with the Revocation of the Inveſtitures: For the Popes pretend, that the Acts of Council are not valid without the Papal Confirmation: So that both the Revocation and Excommunication had been void if the Pope had not confirm'd them.

(*g*) *See the Act itſelf*: Ego Henricus Dei gratia Romanorum Imperat. Auguſtus pro amore Dei, & ſanctæ Romanæ Eccleſiæ & Domini Papæ Caliſti, & pro remedio animæ meæ dimitto Deo, & ſanctis ejus Apoſtolis, Petro & Paulo, ſanctæ Eccleſiæ Catholicæ omnem inveſtituram per annulum & baculum & concedo in omnibus Eccleſiis fieri electionem & liberam conſecrationem. Poſſeſſiones & regalia B. Petri, quæ a principio hujus diſcordiæ uſq; ad hodiernam diem ſive tempore Patris mei ſive etiam meo, ablata ſunt, quæ habeo, eidem ſanctæ Rom. Eccleſiæ reſtituo: Quæ autem non habeo, ut reſtituantur, fide liter juvabo. Poſſeſſiones

which (had lasted 56 Years, under six Popes) had been the Occasion of excommunicating an infinite Number of People, Ecclesiasticks and Seculars, who had engag'd in the Emperor's Quarrel; and which had been the Destruction of Millions of People, on one Side, and the other, in 60 Battles, fought by *Henry* the Father, and in 18 by *Henry* his Son. [*Tantæ molis erat*] So great a Work it was to lay the Foundation of so vast a Structure, which we have since seen carry'd up to its Height: Of which, we shall have occasion to discourse of hereafter.

In the mean time, the Judgments were very various, which were made concerning these Differences, betwixt Pope *Pascal* and the Emperor: Some said the Agreement on the Pope's Part was void, as proceeding from Fear, and made while he and the Cardinals were under Confinement, and in the Emperor's Power (16); and that therefore the Pope had Reason to disown it. On the other side, it was answer'd, That if this were void, as having been extorted by Force, that Argument were as good for the Emperor, who was as little bound to observe all that he had agreed to on his Part, to shelter himself from these Storms of Excommunications and

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sessiones etiam omnium aliarum Ecclesiarum & Principum, & aliorum tam Clericorum, quam Laicorum concilio principum, & justitia, quas habeo ut reddantur, fideliter juvabo. Et do veram pacem Calisto, sanctæ Rom. Ecclesiæ, & omnibus qui in parte ipsius sunt, vel fuerunt, & in quibus sancta Rom. Ecclesia auxilium postulaverit fideliter juvabo. *Abbas Urspergensis in Chron. an.* 1122.

(16) The Emperor had foreseen, and prevented this Objection; for after his Coronation, where the Pope had divided the Host betwixt them, in Token of a perfect Reconciliation, he procur'd a second Bull of the same Tenor with that which the Pope had granted before he was set at Liberty; to the end the Court of *Rome* should have no Pretext to protest against the Concession, or rather Confirmation of Investitures.

Anathemas,

Anathema's, beſides ſo many open Rebellions and private Conſpiracies, which may be reckon'd as thrown into the Compoſition to raiſe the Storm: And therefore what Reaſon was there any more to renounce an Agreement made for Fear of Impriſonment, than one made in Terror of Excommunication and the Conſequences of it, and of ſeeing his People in Confuſion, and his Eſtates torn in Pieces, and overturn'd with Civil Wars.

Some Fathers of the Council in the Preſence of *Paſcal*, made uſe of this *Dilemma*, "If the Decree "by which the Pope conſented to yield up the "Inveſtitures to the Emperor, were lawful, it ought "to be obſerv'd: But if it be unjuſt, and, as ſome "ſay, heretical, the Pope, as the Author of it, "is therefore unjuſt and heretical alſo *.

It is certain, that a Conceſſion of a Thing juſt and due in itſelf, is valid, tho' made through Fear; and on the other ſide, an Act is never juſtifiable, if againſt the Law of GOD, by the ſtrongeſt Impreſſion of Fear that can be pleaded (17).

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* *Abaſs Urſpergenſis in Chron. anno* 1116.

(17) Becauſe the Natural Divine Law is, of itſelf, good and immutable, and commands things abſolutely neceſſary to Salvation. And for this Reaſon, according to St. *Thomas*, the Commandments of GOD bind abſolutely, and not the Commands of the Church, which, for that Reaſon may, in ſome Caſes, be diſpens'd with.

CHAP. XXIV.

THE Strugglings and Contentions betwixt the Popes and Emperors, about the Inveſtitures of Biſhopricks and Abbies, were not confin'd to *Italy* and *Germany* alone, which were the Kingdoms and Dominions of the Emperor: But ſeveral Biſhops in *France* likeways, excited either by Intereſt or Example, took the ſame Occaſion to oppoſe the King *. But as they were not enough united, to enter all into the ſame League with the Pope †, the King generally carried his Point: And the Popes contented themſelves to gain that by little and little, which it had not been poſſible for them to have compaſs'd all at once.

In *England*, where the Kings had hitherto always conferr'd the Biſhopricks and Abbies, *Anſelm*, Archbiſhop of *Canterbury*, in the Year 1102, in Obedience to the Pope's Decrees, began to refuſe to conſecrate Biſhops nominated by the King (*a*). This Conteſt held for many Years, the King maintaining

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* *Vide Goffrid. Vindocin. tract.* 2, 3, & 4.

† *Vide Yvon. Carnot. ep.* 60.

(*a*) Eodem anno [1113] Anſelmus Cantuarienſis Epiſcopus Concilium tenuit Londoniis in eccleſia St. Petri, præſente Rege, & ſuffraganeis Epiſcopis. In hoc concilio ---- Regi, quæ Romæ decreta erant, Concilio generali, plano ſermone deſcripſit, quod videlicet nullus Eccleſiarum Prælatus, Epiſcopus, vel Abbas, vel Clericus Inveſtituras alicujus Eccleſiaſticæ dignitatis de manu ſuſcipiat Laicorum. Et quoniam ad juſſionem Regis quoſdam Epiſcopos, qui inſtitutiones a Rege ſuſceperant, conſecrare noluit, vel eis communicare Rex vehementer iratus præcepit Gerardo Archiepiſcopo Eboracenſi, ut eos conſecraret: Sed Willielmus Giffardus Wintonienſis Electus, qui conſecrari debuit, Gerardi ſprevit conſecrationem. Quare juſſu Regis eliminatur a Regno. *Matth. Paris in Henrico. Vide Juretum in notis ad epiſt.* 190. *Yvonis, & Baluzium Miſcell. tom.* 4. *pag.* 477.

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his Authority (1), and the Archbishop, supported by the Pope, opposing it. The King, in Hopes to bring the Pope to hear Reason, sent an Ambassador to *Rome*, who, provok'd by the rough Answers and Menaces of the Pope, declar'd that his Master would never yield up his Authority, tho' he lost his Kingdom in its Defence: To which the Pope, with no less Boldness, reply'd, He would never suffer the King to nominate to the Benefices, if he lost his Head (*b*). The King stood his Ground, and *Anselm* was forc'd to quit the Kingdom; nor could he ever return again, without complying with the King (*c*). But this Prince dying without Sons, and a Civil War ensuing, it was easy for the Clergy to introduce in *England*, what the Pope had done in the Empire, by the Renunciation of *Henry* V.

(1) He insisted, that the Investitures of Bishopricks was a Right of his Crown, and enjoy'd by his Ancestors for time immemorial.

(*b*) Die pro Regiis constituo negotiis, Willielmus de Warenast Clericus, & Procurator Regis Anglorum causam ipsius in medium tulit, ac inter alia constanter allegavit, quod nec ipse pro regni amissione investituras Ecclesiarum amittere velit, & hoc verbis minacibus affirmavit. Ad hæc Papa, si quemadmodum dicis, Rex tuus nec pro regni amissione donationes Ecclesiarum amittere pateretur, scias præcisè coram Deo dico, quia nec pro mei capitis redemptione eas illi impune permitterem obtinere. *Math. Paris anno* 1103. *Vide Will. Malmsburiensem, lib.* 1.

(*c*) Eodem anno [1109] factus est Conventus Episcoporum & Abbatum pariter & magnatum Londiniis in Palatio Regis, præsidente Archiepiscopo Anselmo, cui innuit Rex Henricus, & statuit, ut ab eo tempore in reliquum nunquam per donationem baculi pastoralis, vel annuli, quisquam de Episcopatu, vel Abbatia per Regem, vel quamlibet Laicam manum investiretur in Anglia, concedente Archiepiscopo, ut nullus ad prælationem electus, pro homagio quod Regi faceret consecratione susceptæ honoris privaretur. *Mat. Paris.*

Mezeray, speaking of this Agreement, saith, that strictly speaking, it was only changing Terms, for who pays Homage is a Vassal, and holds of him to whom he pays it. *In the Life of* Phil. Augustus.

It is true indeed, that in the Year 1132, *Lotharius* of *Saxony*, who succeeded the Emperor *Henry* V. being sought to by *Innocent* II. to acknowledge him for Pope, and *Anacletus* II. (2), his Competitor, refus'd it, unless *Innocent* would restore the Investitures, which *Henry* the Emperor, his Predecessor, had renounced: And probably *Lotharius* had obtain'd them, if he had not desisted from his Pretensions at the Instance of St. *Bernard* (*d*), his intimate Friend; who made him sensible how ill it would look in him, to maintain a Claim, which himself, at the Instigation of Pope *Pascal*, had taken Arms against the Emperor *Henry* to overthrow, and which, at the same time, would be owning himself to have been a Rebel against his Prince in an ill Cause.

And here we find a very ordinary Consequence of great Victories, that where the Force of an Enemy is not quite broken and exhausted, the Remains of the vanquish'd Party often gather Strength, and revive their old Pretensions (*e*), which a prudent Conqueror will try rather to defeat by Artifice and Temporizing, than to return to open Force, which might re-kindle the War (*f*).

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(2) Who, according to *Onuphrius*, was created the same day with *Innocent* II. and held the Chair 7 Years and 9 Months. *Innocent* was chosen by 17 Cardinals, and *Anacletus* by 21, which seems, with some Reason, to make the Election of *Innocent* very doubtful.

(*d*) Importune Lotharius Rex institit, tempus habere se reputans opportunum, Episcoporum sibi restitui Investituras quas ab ejusdem prædecessore Imp. Henrico per maximos labores Rom. Ecclesia vendicarat. Expaveſcentibus Rom. R. potentiam, murum se opposuit Abbas sanctus, audacter enim resistens Regi, verbum malignum mira libertate redarguit, mira authoritate compescuit. *In his Life, by* Allen *Bishop of* Auxerre. cap. 18.

(*e*) Relictis per quos resurgeret bellum. *Tacit. Annal.* 3.

(*f*) Esse adhuc victis vires, ambiguas, si deliberarent, acres, si desperassent, victoriam consiliis, & ratione perfici. *Hist.* 3.

Thus

Thus it happen'd on the preſent Occaſion, the Popes could not gain ſo abſolute a Victory; in a Cauſe of ſuch vaſt Pretenſions, but that there would yet remain, here and there, ſome Benefices in the Diſpoſal of Laymen, and that there was ſtill ſome Prince, who, for Intereſt of State, would diſpoſe of Biſhopricks, without any Regatd had to the Pope's Pretenſions.

In *France* the Regale remain'd in Force, which is a Right the King hath of conferring all ſimple Benefices, or ſuch as are without Cure, that ſhall fall vacant after a Biſhop's Death, untill a Succeſſor be appointed (3).

In *Germany*, the Emperor preſerv'd a Right in many Churches *, of preſenting one of the Canonries: And ſeveral other Princes retain'd likewiſe divers particular Rights.

The Popes fearing to revive the old Quarrel, and to hazard the loſing all the Advantages they had gain'd, if they ſhould attack thoſe particular Cuſtoms, or to prejudice the Common-cauſe, by letting them run on, wiſely had Recourſe to Negotiations and Artifice. So they bethought themſelves of a middle Courſe, which was to ſet the Canoniſts, and other Pen-men, who were in their Intereſts, on writing, to prove, that Princes enjoy'd this Power by Conceſſion only from the Popes; which ſerv'd to advance an Opinion, that Princes had no Right whatſoever, but what proceeded from the Grace and Favour of the Popes, and even, to carry the Pretenſions of the holy See yet higher: Tho', whatever the Pretenſions were, they met

(3) The Regal laſted not only until the Creation of a Succeſſor, but until he had taken the Oath of Fidelity to the King, and had obtain'd Letters of Licence to take Poſſeſſion.

* Abbas Urſpergenſis, anno 1122.

with a great Disposition in Princes to bear with them; who persuaded themselves, that the Addition of a Title from the Church, strengthen'd their own; that it was a quieting and ensuring the Possession, and putting them under Covert from the Papal Persecutions.

But the Event shew'd how much they were mistaken in the Remedy they propos'd, which prov'd a Poison to the Distemper, and destructive of all Quiet: For about the Year 1300, *Boniface* VIII. had sharp Contests with *Philip* the *Fair*, King of *France*, to make him renounce the Regale; and the Quarrel went so high, that the Kingdom was brought into a very dangerous Condition, not only by its being laid under Excommunications and Interdictions (*g*), but by its being made a Present to the Emperor *Albert*, to incite him in his undertaking the Conquest of it.

Those, who at first believ'd it would be for their Interest, to hold that by Concession from the Papal Chair, which was, in Truth, the sole Property of the Princes, did not consider, by what brittle Bands all Apostolick Concessions were held; since no Agreement could ever be found strong enough to

(4) The Author adds, That the King was depriv'd of his Kingdom; but this is easily understood, since *Boniface* gave it to another Prince. Yet this hinder'd not *Philip* and *Albert* from coming to an Interview as good Friends, at *Vaucouleurs* in *Champagne*, where they renew'd the ancient League betwixt the Empire and *France*, *anno* 1299. and the Year following a Marriage was solemniz'd betwixt *Rodolphus* Son of *Albert*, with *Blanch* the Daughter of *Philip*.

(*g*) Misso in Franciam Archi-Diacono Narbonensi Philippum vetat [*Bonifacius*] quidquam de Ecclesiæ proventibus percipere, qui tametsi Ecclesiæ defensor sit, se tamen Regnumq; Franciæ per ejus contumaciam ad Rom. Ecclesiam esse devolutum. *Gagvin. lib. 7. de rebus gestis Franc. Vide Paul Æmilium in Philippo pulcho, pag.* 169.

bind

bind Popes, but that they pretend to a Power of revoking, even without a Cauſe, (not that they ever want Pretexts for one) any Privileges whatſoever, granted by their Predeceſſors: Beſides, that whoever poſſeſſeth any thing in his own Right, and yet is contented to acknowledge it as held of Grace from another, may aptly be compar'd to a Man, who leaves his own Ground, to build on another Man's.

On the Contrary, when any Prince, whoſe Patience was worn out, and grown weary of the Dependance, conferr'd any great Benefice of himſelf, which the Kings of *England* and *Sicily* did very frequently, the Popes made no Words of it to the Prince, for fear of engaging too far in Conteſts; but to prevent any future Prejudice by the ill Precedent, they ſo wrought by the Monks, that the Elect ſhould renounce all his Right into the Pope's Hands (*b*), who ſhould oblige himſelf to give them the Inveſtitures; by which Expedient they arriv'd at the peaceable Enjoyment of that, which otherways would have been eternally conteſted, and have put the Elect in endleſs Difficulties.

(*b*) Hac ratione, atq; hoc ordine Pontificatus ſcandere coactus ægre quidem cum multa hæſitatione conſenſit propter contentionem illam quæ erat inter regnum & ſacerdotium cauſa Inveſtituræ, & electionum Eccleſiarum, quas evacuare ſibiq; vindicare plus æquo nitebatur Imperialis authoritas. Rurſus autem verebatur, non ſine Divinitatis nutu jam tertio ſibi auferri Epiſcopatum, eumq; ſi tertio ſibi repudiaret, poſſe in ipſum competere illam ſententiam: Noluit Benedictionem & elongabitur ab eo. Inter has igitur anguſtias poſitus, quod unum ſalutare exiſtimabat, ad ſanctæ & Apoſtolicæ ſedis auxilium confugere decrevit. In ipſo igitur articulo, cum adhuc in Aula Imperatoria eſſet, votum nuncupavit Domino, nunquam ſe in Epiſcopatu permanſurum, niſi conſentiente & poſtulante Eccleſia ſua, ipſius Pontificis Maximi manu, & conſecrari & inveſtituram conſequi mereretur. *Anonym. in vita S. Ottonis, anno* 1102.

Of this manner of proceeding, *Florence* of *Worceſter*, and *Ivo* of *Chartres* *, Writers of that Age, make frequent Mention, as of a common Practice in *Germany* and *France*, where, to uſe their own Phraſe, the Popes took with one Hand, and gave with the other. And it found the eaſier Admiſſion with the Parties concern'd, becauſe it drew them out of the preſent Difficulties: And when the King who had preſented, came to know it, he was apt to let it paſs, ſince it wrought no immediate Alteration, without conſidering what Conſequence it would have in the End. The Popes alſo, at this Day, play the ſame Game againſt the Catholick Biſhops of *Germany*, who refuſe to admit their Right of Prevention or Reſervations; of which, more ſhall be ſaid in its proper Place †.

In *Spain*, the ſedate and quiet Temper of that prudent Nation, together with the good Government of their Kings, amidſt an univerſal Agitation round about them, preſerv'd that Country in a perfect Calm: To which, the Exerciſe the *Saracens* gave them in thoſe Ages, might poſſibly contribute, ſo far as to incline them to live in Union with their Kings, and to make Peace more valuable.

Theſe Kings had never ſtrain'd their Power over the Clergy to any extravagant Pitch, in order to bring them lower; nor had the Clergy ever enter'd into any foreign Engagements, beyond their Duty, to exempt themſelves from the King's Juriſdiction. Beſides that, when it was evident that the Popes had, either by Force or Terror, or by Intrigues, gain'd Advantages over other Kingdoms, theſe Princes ſtudied always ſuch Expedients, as might prevent the Effects of theſe Innovations as much as

* Epiſt. 190, 191, & 233. † See the Article 39.

poſſible.

poſſible. And therefore, tho' Biſhops and other Eccleſiaſticks had been conſtantly ordain'd here according to the ancient Uſage, yet when the Changes we have mention'd came to be made in other Countries, theſe Princes would have no Differences with the Popes, but by a wiſe Temperament, contented themſelves with contriving, That no Biſhop ſhould be ordain'd, without their Conſent: And to ſecure himſelf of that Right, *Alphonſus* VI. ſought to *Urban* II. for his Confirmation; who granted him the *Jus Patronatus* of all the Churches in his Kingdom (5).

Thus we ſee the Kings of *Spain* have proceeded in quite another Method than thoſe of *Germany*, *France*, and *England*; for being contented to hold that Precarious, and as of Grace from another, which belong'd to themſelves ſingly, they purchas'd a more peaceable Enjoyment: When others have been a long time ſtruggling and defending themſelves againſt any ſuch Acknowledgement: And yet, both the one and the other acting upon very prudent Conſidarations.

Theſe ſaw evidently, that it was the high Road to Subjection, and to loſe all; ſeeing the Demand of the Pope was not an End of his Pretenſions, but a Step to much greater. They conſider'd their own Subjects, eſpecially the Eccleſiaſticks, carried by a Paſſion for Liberty, that might be call'd Licentiouſneſs: And conſequently, as they were always ready to enter into Engagements with Forreigners, to leſſen the Authority of their Prince, ſuch a Door ought not to be left open to invite them.

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(5) *Platina* ſaith, That *Urban* II. gave the Pallium to the Archbiſhop of *Toledo*, and created him Primate of *Spain*, and excommunicated the King of *Galicia*, and all the Province, for having impriſon'd the Biſhop of St. *James*'s

But

But in *Spain*, tho' the Confidence which the Princes had in the peaceable Diſpoſitions of their Subjects, gave no Jealouſy of their having Recourſe to any foreign Intereſts, yet theſe Princes had a great deal to apprehend from the low State of their Affairs at that time, and from the Artifices of thoſe who had been already ſo ſucceſsful in making the Subjects of other Princes revolt, who far exceeded theſe in Power: And therefore, prudently determin'd to receive freely, what greater Princes than themſelves had been compell'd, after ſo many Wars and bitter Conteſts, to ſubmit to.

Finally, in that Space of Time, betwixt the Years 1122, wherein the Emperor *Henry* V. renounc'd the Inveſtitures, and 1145, it became a Rule almoſt every where eſtabliſh'd, that upon the Death of the Biſhop, his Succeſſor ſhould be choſen by the Chapter *, and confirm'd by the Metropolitan: That the Abbots ſhould be choſen by the Monks †, and then confirm'd by the Biſhop, if the Monaſtry were not exempted, and if it were, the Pope (1) was to be apply'd to for his Confirmation. That the other Benefices, which were *de Jure Patronatus*, ſhould be conferr'd by the Biſhops upon the Preſentation of the Patron: But that all the reſt ſhould be at the intire Diſpoſal of the Biſhops.

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* See St. *Bernard*, Ep. 22. ad Clerum Senonenſem 276. ad Eugen. Papam, & 282. ad Ludovicum Regem Francorum.

† Id. Ep. 381. ad Alexandrum Priorem de Fontibus.

(1) *Matth. Paris* ſaith, That this was not practis'd in *England*, till after the Year 1257. Eodem anno ſtatutum eſt Romæ a Domino Papa, & fratribus Cardinalibus qui vigilanter ſua temporalia procurant commoda & emolumenta, aliena non curantes ut quilibet qui in Abbatem exemptum ex tunc eligeretur, Romanam Curiam adiret confirmandus & benedicendus. *In Henrico* 3.

There

There remain'd indeed the chief Election of all, the Popedom, which seem'd not to fall under any Regulation; for, after the Emperor had been excluded from the Election, instead of its returning to the People, which was a Consequence ought to have been expected, *Innocent* II. upon a Quarrel betwixt him and the *Roman* People, in which he was driven out of *Rome*, in Return, took away the Right of Election from the People (*k*).

(*k*) Innocentio II. *saith* Onuphrius, qui pacem quam bellum malebat a Civitatis administratione submoto, novum reipublicæ corpus, præter ejus voluntatem, constitutum est [because the *Roman* People desir'd to shake off the Yoke of the Priesthood, and re-establish the old Democratical Government] In quibus controversiis populus Romanus, quod Pontifici rebellis esset, Anathemate notatus, tunc primum a Pontificiis comitiis omnino excluſus. Primus porro, sine ullo populi interventu Papa creatus est, mortuo Innocentio secundo, Cælestinus secundus. *Annotat. ad vitam Innoc.* II.

CHAP. XXV.

DUring the Troubles which arose upon the Subject of these Differences, many Cities revolted against the Emperor, at the Instigation of their Bishops, who were in Confederacy with the Pope; and having made themselves the Heads of the Rebellion, became Masters of the publick Revenues, and of the Rights and Royalties belonging to the Crown: And when Things came to be compos'd, they

they were so well fix'd (1) in those Possessions, that the Prince was oblig'd to grant them the Fiefs of what they had really usurp'd (2): By this Means they acquir'd the Titles of Dukes, Marquisses, and Counts, of whom we find many in *Germany* at this Day, both in Name and in Reality; tho' in *Italy*, indeed, they retain only the Name. And thus we see how vast Secular Estates became Ecclesiastick, [and grew sacred] which receiv'd also a considerable Addition during the other Troubles and Confusions, which happen'd under the Emperors of the House of *Suabia*.

(1) *Tacitus* observes, that it is usual for Usurpers to alledge a long and unjust possession for a just Title.

Regis Appionis agros proximus quisq; possessor invaserant, diutunaq; licentia & injuria quasi jure & æquo nitebantur. *Anno* 14.

(2) It was because of these Fiefs, that many Bishops, both *German* and *French*, were oblig'd to go in Person to the Wars.

CHAP. XXVI.

THE Monks in these Days, by interesting themselves, and by their active Appearance, in favouring the Attempts of the Popes against the Princes (1), lost much of the Opinion, which was had before in the World, of their Sanctity.

(1) *Mezeray* saith, that in Consideration of the Services done to the holy See, in the Quarrels with the Emperors, that the Popes honoured the principal Abbots with Episcopal Ornaments, *viz.* A Miter, a sort of Vestment or Surplice, or Vestment call'd *Dalmatica*, Gloves, Sandals, and then with the Crosier. *Life of* Phil. Augustus.

As,

As, indeed, all Diſcipline and ſtrict Obedience among them were ſunk ſo low, ſince they had intruded themſelves into the Affairs of State and War, that it put a Stop to the Growth of their Fortunes; except in ſome little Fraternities newly inſtituted in *Tuſcany*, who made themſelves no Parties in theſe Broils, but preſerv'd their Diſcipline (2): So that theſe ſtill ſhar'd in the Peoples Devotion, and ſtill preſerv'd the Means of acquiring it, tho' in a very moderate Degree, becauſe of the Poverty of the Country.

(2) *F. Paolò* here tacitely praiſeth the Order of *Servites*, whoſe Habit he wore: For it was about this time that this Order, and many others, were ſeated in *Tuſcany*. Origo eſt, *ſaith he, in one of his Letters to* M. Gillot, ex Florentia, in ea Civitate Mercatores quidam ſe in Collegium coegerunt anno Dom. 1230. Quo tempore ea Regio hujuſmodi partuum ferax erat. Quod in laudibus B. Virginis cantandis aſſidue occuparentur ---- a vulgo tunc ſervi B. Mariæ vocati; unde ad nos ſucceſſores nomen.

CHAP. XXVII.

BUT there was another Incident in the Times of which we have been ſpeaking, which contributed vaſtly to the Acquiſitions of the Church, and that was, The holy War. And Men were ſo tranſported with Zeal for Expeditions to the holy Land, and for Contributions towards its Recovery, that loſing all Memory of their Wives, Children or Eſtates, they enroll'd themſelves in that Service, ſold all they had, and paſs'd the Seas. The ſame Inſenſibility reach'd even the ſofter Sex, who, without any Concern for their Children or Families, on this Occaſion ſold their Inheritances to carry on that War.

The

The Popes, by Virtue of their Briefs, declar'd themselves, and the other great Prelates, Protectors of the Families and Affairs of all those, who had taken upon them the Crusade (*a*), (the Term used for those who went to that War against the Infidels): And the Churches drew to themselves all the Profit which usually arises from being Tutors, Trustees, Procurators or Sollicitors for Widows, Pupils and Minors. Nor did the Civil Power think fit to make any Opposition, deterr'd by the Censures of the Church, which were then so formidable and fulminated in so great Abundance.

Eugenius III. went yet farther, he ordain'd that every Man might, in Favour of this holy War, alienate even the Fiefs he held; which, if the Lord could not come to take Possession of, the Church might, even against the Will of the Lord:

(*a*) Eis qui Hierosolymam proficiscuntur, & ad Christianam gentem defendendam, & tyrrannidem Infidelium debellandam efficaciter auxilium præbuerint, suorum peccatorum remissionem concedimus, & domos, & familias, & omnia bona eorum in B. Petri & Rom. Ecclesiæ protectione, sicut à domino nostro Papa Urbano statutum fuit suscipimus. Quicunq; ergo ea distrahere vel auferre quam diu in via illa morantur, præsumpserint, excommunicationis ultione plectantur. *Conc. Lateran. sub Calixto* II. *an.* 1122. *can.* 11. See the 2d Canon of the Council of *Clermont*, and the Notes of Mr. *de Marca*. *Ivo Chartres, ep.* 173, & 197. *Hildebert* Archbishop of *Tires*, *lib.* 1. *ep.* 15. *William de Newburg, lib.* 3. *cap.* 23. *Roger Hoveden, p.* 639. *Matth. Paris an.* 1245. *Otho* of *Frisingen, lib.* 1. *de gestis Friderici cap.* 35. & *epist.* 197. *of Innocent* III. *lib.* 15.

Observe what the Archbishop of *Tyre* saith, that many Gentlemen went to the holy Land only to get discharg'd from paying their Debts: To which the following Bull of *Gregory* IX. relates, *viz.* --- Si qui vero proficiscentium illuc ad præstandas usuras juramento tenentur adstricti, creditores eorum per Ecclesiarum Prælatos, ut remittant eis præstitum juramentum, & ab usurarum exactione desistant, præcipimus compelli. *See Matth. Paris in Henrico* III. 1251.

Which,

Which, alone, open'd a Way to mighty Acquisitions (1).

It likewise happen'd, that the Popes would employ the Arms design'd for the holy War, in some Enterprizes for enlarging the Temporalities of the Church; and their Legates, and the Bishops of such Places as were the Rendevouzes for the Troops when they were drawn together, would employ them likewise in some Service, for the Encrease of their Temporalities.

To this may be added the large Sums which were drawn from devote People, chiefly from the Women, and others incapable of serving, themselves, in Person; either to free them from the Obligation of some Vow, or to obtain Indulgences and other spiritual Graces: All which, no Body imagines, were laid out in the War; for besides that, there is no doubt, the Princes got some Share, a considerable Part was still reserv'd in the Hands of the Prelates, and so became an Encrease to the Church.

Then follow'd the Institution of the Religious-Military Orders of the Knights, Templars (*a*), Hospi-

(1) The Crusades, saith *Mezeray*, render'd the Popes very powerful, for they order'd Princes to enrol themselves in those Expeditions; they retain'd the Soveraign Commands of these Armies by their Legates, and they became, in some sort, Lords in Chief of all those who went to the Crusade; not only because the Popes exacted Obedience from them, but because they took the other under their Protection till their Return, which was like Letters of State, and suspended all civil and criminal Proceedings. Mezeray *in the Life of* Phil. Augustus.

(*a*) Templariorum militum ordo institutus anno 1118. Hierosolymis ab Hugone de Pagonis & Gaufrido de Aldemaro: Horumq; fuit primitus professio, ut vias & itinera maxime ad salutem peregrinorum contra Latronum & incursantium insidias pro viribus conservarent. Cum autem 9 annis post eorum institutionem in habitu fuissent seculari,

Hospitalers, *&c.* to guard the Temple of *Jerusalem* (*b*), protect the Pilgrims who resorted thither, and to fight against the *Saracens*. And tho' Religious Institutions toshed Blood, seem'd something new, and not easily to be reconcil'd, yet they were embraced with such a Fervour, that the Orders grew to immense Riches in a very small time, and consequently, all together, were vast Articles of Encrease in the whole.

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secular, in concilio Trecensi data fuit eis regula & habitus assignatus fuit, albus viz. de mandato Honorii Papæ, & Hierosolymitani Patriarchæ. Post modum vero sub Eugenio Papa cruces de panno rubeo, ut inter cæteras essent notabiliores, assuere cœperunt, tam equites, quam eorum fratres inferiores, qui dicuntur servientes. Atq; hi quoniam juxta templum Domini in Palatio Regio mansionem habebant, fratres militiæ templi seu Templarii appellati sunt. *Cangius in Gloss. ex Willielmo Tyrio, lib.* 12. *cap.* 7.

(*b*) Terra illa promissionis, lacte & melle fluens, non solum religiosos clericos, sed etiam laicos tam milites quam alterius conditionis, ut in ea relictis parentibus & propriis patrimoniis regulariter viverent, incitavit attraxit & illexit; quorum quidam hospitalarii, sive fratres hospitalis S. Joannis, alii fratres militiæ templi, alii fratres hospitalis Sanctæ Mariæ Teutonicorum in Hierusalem nuncupantur. *Jacob. de Vitriaco, cap.* 64. *Hist. Hieros.*

But in the Year 1313, the Order of Templars being abolished, their Goods were given to the Hospitalers: Which is related at large by the Continuer of the Abbot *Urspergensis, pag.* 28.

CHAP.

CHAP. XXVIII.

ANother conſiderable means of Encreaſe, was a ſtrict Review made concerning the Buſineſs of Tythes, proceeding by Cenſures againſt thoſe who did not pay them, and compelling the Payment, not only of the Predial Tythes, but of mixt Tythes alſo; that is to ſay, beſides thoſe of the Fruits of the Earth and of Cattle, Perſonal Tythes, which proceed from human Induſtry and Labour.

To this Enforcement of the Payment of Tythes, they added alſo the Firſt-fruits: Theſe were firſt inſtituted by *Alexander* II. in Imitation of the Moſaick Law, which enjoin'd them to the *Jews*; but *Moſes* had not determin'd the *quantum*, but left it at large, to the Pleaſure of thoſe who offer'd them. Since that, the *Rabbins*, as St. *Jerom* informs us, have determin'd, that theſe Oblations ſhould not be under a 60th Part, nor above a 40th; which is a Rule our Churchmen have follow'd in the moſt gainful Way, adjudging that to be the 40th Part only, which, in our Days, is call'd the Fourth.

About the Year 1170, *Alexander* III. order'd Proceedings by Cenſures, to enforce the intire Payment of Tythes of Mills, Fiſheries, Hay, Wool (1), and Bees (2): And that the Tythes of every Thing ſhould be paid, before the Charges in gathering the

(1) Mandamus quatenus Parœcianos veſtros monere curetis, & ſi opus fuerit ſub excomunicationis diſtrictione compellere, ut de potentibus molendinarum, piſcaniarum, feno & lana decimas Eccleſiis quibus debentur cum integritate perſolvant. *Decret.* 3. *tit. de decimis*, &c. *cap.* 5.

(2) Mandamus quatenus parœcianos tuos de apibus, & de omni fructu decimas perſolvere eccleſiaſtica diſtrictione compellas. *Ibid. cap.* 6.

Fruits (3) should be deducted. And in the 1195, *Celestin* III. decreed, under Pain of Excommunications, the Payment of Tythes, not only of Wine, Grains, Fruits, Trees, Cattle, Gardens, Merchandises, Soldiers Pay, Hunting (4) and Wind-mills (5); All which are express'd in the Decretals of the Popes: But the Canonists have gone much farther, affirming, that the Poor who beg about the Streets, are oblig'd to pay the 10th of all the Alms they get, and Common-Women likewise a Part of their infamous Gain: With some other laudable Fruits of the same Nature, but which have never yet obtain'd to be put in Practice.

Tythes were assign'd to the Ministers, in Consideration of their Services they perform'd, in teaching the Word of GOD, and administring the Sacraments; since nothing else was paid them for these Functions: Except where some devout and rich People would give sometimes out of meer Bounty, for the burial of their Relations, or for

(3) Cum homines de Hortona de frugibus decimam ecclesiæ cujus parochiani sunt sine diminutione solvere teneantur, & antequam id faciant, mercenariis suis de frugibus, non decimatis debita totius anni, pro servitio suo impendant, tunc demum de residuo decimam persolventes: Mandamus quatenus eos cogatis ut decimam statim fructibus collectis persolvant. *Ibid. cap.* 7.

(4) Revera sicut sancti Patres in suis tradiderunt scripturis, de vino, grano, fructibus arborum, pecoribus hortis, negotiatione, de ipsa etiam militia de venatione decimæ sunt, ministris Ecclesiæ tribuendæ, ita ut qui de his eas solvere neglexerint, ecclesiastica, districtione debeant percelli. Volumus ergo & districte præcipimus quatenus decimas Ecclsiis cum integritate debita persolvatis. *Ibid. cap.* 12.

(5) Quia fidelis homo de omnibus quæ licitè potest acquirere decimas erogare tenetur: Mandamus quatenus H. militem ad solutionem decimarum de his quæ de molendino ad ventum proveniunt sine diminutione aliqua compellatis. *Ib. cap.* 23.

Admini-

Administration of the Sacraments; which Generosity, in time, turning into a Debt, and a Sum certain, created a Dispute; the Laicks refusing to pay for the Administrations of the Sacraments, because the Tythes they paid were design'd for that Purpose, and the Ministers refusing to perform their Functions, if they had not what they pretended was their Due.

About the Year 1200, *Innocent* III. apply'd a Remedy to this Evil, first by forbidding the Priests to make any Bargain for performing their Ministry, or to refuse officiating to those who refus'd to pay: And then by providing, that after they had so officiated, the Laicks should be compell'd, by Censures, to keep up the laudable Custom (for so it is term'd) of paying what was customary (6): In which great Difference was made betwixt forcing the People to comply with a Bargain, and a Compulsion by Censures after: The one being condem-

(6) Quidam laici laudabilem consuetudinem erga sanctam Ecclesiam introductam nituntur infringere. Qua propter pravas exactiones fieri prohibemus, & pias consuetudines præcipimus observari: Statuentes ut libere conferantur, ecclesiastica sacramenta, sed per Episcopum loci, veritate cognita compescantur qui malitiose nituntur laudabilem consuetudinem immutare. *Decret. lib. 5. tit. de Simonia. cap. ad Apostolicam.*

This Constitution having been quoted in the Council of *Trent*, *John Maria del Mente*, first Legate, said, It was doing great injury to the Pope and the Council of *Lateran*, to believe so great an Abuse was authoriz'd by them: And that who would read the Chapters preceding this, would find that the Council had condemn'd this Custom: And that in the same Chapter he did not approve the Usage of Gifts or Offerings at the Administration of the Sacraments, but only certain laudable Practices establish'd in Favour of the Churches, as Tithes, First-fruits, Offerings at the Altar, &c. As *Bartholus* and *Giles de Roma* have interpreted it. *Fra. Paolo, lib. 2. Hist. Counc. of* Trent.

ned as Simonical, the other being justify'd as lawful (7).

(7) If therefore those who serve at the Altar, after the Offices perform'd, have a Right to exact a Salary, and can employ spiritual Arms against those who refuse it: By the same Rule, when the People have paid the Temporalities which they ow'd the Church, they may maintain themselves by Force, in the Possession of the Spiritualities, which it has endeavour'd to deprive them of; and say with the Maccabees, *Nos pugnabimus pro animabus nostris, & legibus nostris.* 1 Maccab. 3.

CHAP. XXIX.

ANother Novelty, contributing greatly to their Wealth, was introduced at this Time. It had been prohibited by the ancient Canons, to accept any Donations or Legacies from divers Kinds of publick Sinners, such as sacrilegious Persons, Curtezans, and those who were at Variance with their own Brothers (*a*). But all these Difficulties were intirely remov'd, and all Gifts, from what Hand soever they came, were indifferently receiv'd.

(*a*) Oblationes dissidentium fratrum neq; in sacrario neq; in gazophilacio recipiantur similiter dona eorum qui pauperes opprimunt, a sacerdotibus refutanda sunt. *Canon* 93. *Concilii Carthag.* 4. *apud Gratian dist.* 90. *Can.* 2.

The Reason why these sort of Offerings were not receiv'd, was, accordidg to *Salmasius*, Quia ex Canone 37. Codicis Ecclesiæ Africanæ liquet primitias in Altari offerri solitas & suam habuisse propriam benedictionem. Non igitur pium aut sanctum visum est Patribus antiquis, Deo rite consecrari, & benedici quas a Peccatoribus offerrentur. Hinc Canon. 28. Concilii Illiberitam: Episcopum placuit ab eo, qui non communicat, munus accipere non debere. *Vide Mendozum in hunc locum.*

And

And it is even evident in Practice, that the greateſt Part of Legacies and Donations beſtow'd on the Church, are owing to the Bounty of infamous and Publick-Women (1), or of People who are gratifying that way their own particular Quarrels with their Relations.

The Popes ſet all their Wits on work to facilitate and encourage theſe Acquiſitions, as well as to preſerve the Power of diſpoſing them, as we have ſhew'd, which had with ſo much Toil and Blood been wreſted out of the Princes Hands, and transferr'd into the Clergy's. To this the whole Eccleſiaſtical Order, induc'd by their own Intereſt, not only conſented, but concurr'd with their utmoſt Aſſiſtance in their Preachings and Writings, continually inculcating that the intermeddling at all in the Diſtribution of Benefices, and particularly in the Election of the Pope, had been the Effect of Tyranny in Princes, and Uſurpation in the People. And in our Days *Baronius*, throughout all his Annals, upon all Occaſions, and with great Earneſtneſs maintains, That for Princes to Intereſt themſelves in the Election of Biſhops, and eſpecially of Popes, is an impious and tyrannical Uſurpation. Not conſidering, that the beſt Popes have all along been thoſe whom the Princes have made; and every time that the Eccleſiaſticks have had the Elections to themſelves, without any Lay Mixture, infinite Diſorders have enſued.

But that which is moſt obſervable is, that the Popes of the holieſt Lives, and Emperors whoſe Memories will be eternal, have recomended this Practice, and judged it neceſſary. Neither can it

(1) A *Venetian* Prieſt told me once pleaſantly, That the Whores left their Eſtates to the Church, that they might be allow'd to be Chriſtians.

now consequently be censur'd, without casting Reflections on the Memories of 24 Popes of the best Livers, and among others of St. *Greory*, and without condemning the ancient Doctrines of the Councils and the Fathers.

CHAP. XXX.

IF the Churchmen had at first discern'd the Consequence of attempting to take away the Investitures from Princes, they would scarce have been drawn into such an Innovation: But they thought to have found their own Interest in it, and a Means of being more Independent. Thus the first Usage came to be renew'd, of bestowing all the Benefices within their proper Dioceses, by Election of the Chapter and Collation of the Bishop. The Pope likewise kept to this Rule, without pretending to any Donations out of the Diocese of *Rome*; except in Case only where a Prelate, whom Devotion or Business had carry'd to *Rome*, and happen'd to die there (1); and that some Person of very eminent Merit, of the same Nation, were found in his Company or Retinue: Him the Pope immediately would name in Place of the Deceas'd, and send him back with Letters of Condolance to the Diocese or Monastery, on their Loss, and Consolation on the Person he had sent to succeed. This found the easier Compliance in the Chapter or the Monastry, as it happen'd but very rarely, and as it pass'd rather as a Favour from the Pope: Besides that, there ap-

(1) These Benefices were call'd *Vacantes in Curia*. See Article 35. of this Treatise, and Chap. 2. *de prebendis in Sexto*.

pear'd

pear'd no Room for Exception againſt a Man of Merit, and of the ſame Country.

But if the Pope had not fill'd up the Vacancy before the News of it came to the Place, they waited no longer, but forthwith proceeded to Election according to Cuſtom: And in no other Caſe did the Pope diſpoſe of any Benefices out of his Dioceſs.

In the mean time, as the See of *Rome* had merited ſo highly of the whole Clerical Order, in having with ſo many Labours, Dangers, and the Effuſion of ſo much Blood, purchas'd the ſole Diſpoſition of Benefices, to the total Excluſion of Prince and People, both which had, in their Turns, been in Poſſeſſion of that Right; the People firſt, when Benefices firſt began, and the Princes for a long time after; ſo the Biſhops held the Pope's Friendſhip in the Eſteem it deſerv'd, and ſought to make him all the Returns in their Power: And this encourag'd the Popes to deal with the Biſhops after the Example of the Emperors, and to recommend a Clergyman now and then to be provided with a ſuitable Benefice.

At firſt theſe ſorts of Requeſts gave great Alarms to Princes, who plainly ſaw, by this means, a Gate open'd to introduce Strangers into the Benefices of their Dominions: Yet they met with all the Compliance that could be expected from the Biſhops, who being big with nothing ſo much as the Deſign of excluding the Princes, were not aware, that in depriving them, any other Power could ſtep in betwixt themſelves and the Collation of the Benefices. And yet the Profits which the Court of *Rome* drew from theſe ſort of Recommendations, in the Preſents which were made to obtain them, and from the Bulls which were made on theſe Occaſions, ſo multiply'd theſe Prayers and Recommendations, and brought them on ſo thick, that the Biſhops became

depriv'd almoſt of all their Collations (2), which oblig'd them, ſometimes, to refuſe their Compliance.

But the Popes found a Remedy for this too, by adding Commands to their Requeſts, which indeed enforc'd Obedience at firſt, but becoming alſo too frequent, the Biſhops, at laſt, loſt all Patience, and without having any Regard to Commands, or the Cenſures contain'd in them, or without obſerving any farther Meaſures, beſtow'd the Benefices as they thought moſt agreable for their own, and their Church's Intereſt: And then the Pope found it requiſite to appear contented, and to pardon them for that time, as for a thing already done, for which there was now no Remedy.

But the Channel which this Corruption had found, would eaſily have been ſtopp'd, if this Court had not thought of a farther Expedient ſtill, which was, to accompany theſe Prayers and theſe Commands with ſome Perſon who was ſent to ſee them put in Execution, and to confer the Benefice, if the Biſhop did not, as well as to puniſh him for his Diſobedience. Yet the Popes came but ſlowly to theſe Extremities, and when the Contumacy of the Biſhop made it neceſſary. But in the End, to ſhorten the Proceeding, they expedited the Prayer, the Command, and the Execution of them, all at once.

(2) They deſerv'd it well for having abandon'd the Intereſt of their Princes, and eſpous'd a forreign Power: The Popes had humbled the Emperors before, in taking from them the Right of Inveſtitures, and it was but reaſonable that the Biſhops, who had join'd with the Popes in it, ſhould have their Turn in being mortify'd.

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This gave the Church and the Bishops an unspeakeable Vexation (3); and the Princes and Nations where these things were acted, complain'd loudly, not only that their Rights were taken away, but that the Benefices, which by long Prescription had been given only to Natives of the Country, by this Means fell all into the Hands of Strangers (*a*), who resided at the Court of *Rome*. Which had often this Consequence, that Bishops and Parish-Priests were made, who understood not the Language of their Auditors, and which they were very unapt to learn, being so different from their own; many *Italians*, for instance, being benefic'd in *England*.

At length the Evil grew so notorious, that the Pope was oblig'd to take Notice of it, and to forbid

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(3) They complain'd (saith *Mezeray* in the Life of *Phil. Augustus*) that the Popes depriv'd them of a great part of their Authority, which belong'd to them as Successors to the Apostles, by taking to their own Tribunal the Knowledge of all Causes, leaving almost nothing to the first Cognizance of the Bishops; by granting Dispensations of the holy Canons, as if all Ecclesiastical Discipline depended meerly on their absolute Pleasure: By granting Exemptions to Inferiors, thereby to draw them from the Obedience to their Superiors; and by their engrossing to themselves the greatest part of the Benefices.

(*a*) Beneficiorum Ecclesiasticorum peculia manus ocupant indignorum, & nonnunquam exterorum & plerumq; dignitates & beneficia notabiliora personis conferuntur incognitis & non probatis, quæ in iisdem beneficiis non residentes ficq; vultus sibi commissi gregis non agnoscunt, linguam aliquando non intelligunt: Quinnimo animarum cura neglecta velut mercenarii solumodò temporalia lucra quærunt. *Prœmii Pragmaticæ sanct. pag.* 34.

Panormus, *tho' an* Italian, *complains thus of the Abuse*, Esset, *saith he*, valde honestum & fructuosum, ut quisq; in patria sua beneficiaretur, ut sic unus non occuparetu beneficia vel stipendia alterius, nec daretur materia depauperandi beneficia, & quia inducuntur facilius ad residentiam tales indigenæ quam Extranei. *Chapt. ad Decrem, de Institution.*

any

any one to poſſeſs a Benefice, and eſpecially a Pariſh-Prieſt, who underſtood not the Language of the Country: But then reſerving to themſelves that Invaluable Power of Diſpenſation, their Prohibitions had no other Effect, than inſtead of curing theſe Diſorders, to raiſe the Prices of committing them, to the manifeſt Profit of the Court of *Rome*, which was always ready to grant Expectatives or Reverſions to Forreigners and Strangers, and after that a Brief of Diſpenſation.

But whatever Scandal this Exorbitancy of Power in the Court gave to good Men, it was, however, very agreeable to many of the Clergy, and others, Suiters and Candidates for Benefices, who lay fetter'd under ſome Canonical Impediments, which made them incapable. No Biſhop durſt prefer Men under theſe ſort of Marks, with-held by a juſt Reſpect for the Canons: But what was too ſcandalous for Biſhops, the Pope took upon him without any Scruple, by Virtue of that diſpenſing Power, which could admit of no Stain, which he apply'd to the diſſolving all the Canons and Eccleſiaſtical Conſtitutions by a certain Formula, *De Plenitudine Poteſtatis*, and the Clauſe *Non obſtantibus*; Phraſes unknown and unheard of in ſo many foregoing Ages, but which are now the Stile of every beneficiary Bull. Nay, on the Contrary, Popes in the beſt Times, and in the ſtricter Ages of Piety, valu'd themſelves on a ſtricter Obſervation of the Canons, which related to the Diſtribution of Benefices in the Dioceſs of *Rome*, than any other Biſhop's. And we find St. *Leo* and his Succeſſors placed one of their chiefeſt Glories in the punctual Execution of the Canons, firſt as to their own Parts, and then in exacting it from others. Nor let it be anſwer'd, that theſe had leſs Authority; ſure we are, they had a larger Share of Vertue and Wiſdom, which made them Cowards

in

in every Action that was not allowable to others: Whereas, ſince thoſe Days, every thing ſeems privileg'd at *Rome*, which no Body dar'd to do any where elſe.

St. *Bernard*, who liv'd about the Time when theſe Novelties were introduc'd, tho' they had not then prevail'd ſo far as they have done ſince, reproves them ſharply: Writing to *Eugene* III. he laments that *Rome* was the common Rendevouze for the Ambitious Man, the Covetous, the Sacrilegious, the Adulterer, and the Inceſtuous, who all reſorted thither in Purſuit of Benefices (*b*), and where they met with a Reception, they could have no where elſe; no place, but *Rome* alone, putting a Sanction upon Things illicite and illegal, and which had always been ſo reputed, giving them a Paſſport through the World.

The Popes themſelves could not deny the Grievance, which the granting Expectatives was to the Churches: *Gregory* IX. *Cap. Mandatum de Reſcript.* openly avows it, and on this Occaſion therefore, he qualify'd theſe Expectatives, by inſerting this Clauſe, *viz. If we have not already writ for another* (*c*)

(*b*) Nec mihi opponas nunc Apoſtoli vocem qua ait, cum eſſem liber, ex omnibus omnium ſervum me feci: Longe eſt iſtud a te, nunquid hac ille ſervitute hominibus inſerviebat in acquiſitione turpis queſtus? Nunquid ad eum de toto orbe confluebant ambitioſi, avari, ſimoniaci, ſacrilegi, concubinarii, inceſtuoſi, & quæq; iſtiuſmodi monſtra hominum, ut ipſius Apoſtolica authoritate vel obtinerent honores Eccleſiaſticos vel retinerent? Ergo ſervum te fecit homo, cui vivere Chriſtus erat & mori lucrum, ut plures lucri faceret Chriſto, non ut lucra augeret avaritiæ. *Cap.* 4. *lib.* 1. *Conſider. a Eugenium.*

(*c*) Mandatum Apoſtolicum ad te directum ut magiſtrum S. faceres in Canonicum recipi, & in fratrem Novient. Eccleſiæ; ſi pro alio ibidem non ſcripſimus, qui hujuſmodi gratiam proſequatur, alio jam beneficium per noſtras literas obtinente, proſequi non teneris, nam ſuper receptione duorum, grandi Eccleſiam non fuit intentio mandatoris. *Decret. lib.* 1. *tit.* 3.

which

which was a way of fixing a Custome as a Right, that every Pope might grant one Expectative in every Church, and no more.

And since that, they have brought it into a Custom also, at their Entrance into the Popedom, to revoke the Expectatives granted by their Predecessors, either to make Room for their own, or to oblige those who had them before, to purchase them over again. And sometimes also they revok'd those which themselves had granted, to oblige the Grantees to the Expence of new Bulls to confirm their Title.

As for elective Benefices, such as Bishopricks and Abbies, there they granted no Expectatives in those Cases, there being no Examples or Precedents of Princes having ever granted any. But the Court of *Rome* found out other Expedients to draw to themselves the Collations of these Prelatures, in prescribing many Conditions which were to be observ'd before Election, and others during the Election itself; besides divers Qualifications requir'd in the Person elected himself *: And if the Electors fail'd in any of these Conditions, they were for that Time depriv'd of the Right of Election, and so it lapsed to the See of *Rome*.

And then as Difficulties would often arise concerning the Validity of Elections, from the Variety of Interests in the Electors, or from other Causes, one of the Parties would appeal to *Rome*, and so Occasion would very often be taken to judge them both in the wrong: The Election being thus vacated, was another Means of making the Collation

* Vide *Cap.* 25. ex de electione & electi Potestate.

of

of the Biſhoprick or Abby, lapſe alſo to this Court (*d*).

Laſtly, when the Pope underſtood there was a good Biſhoprick or Abby vacant, he immediately diſpatch'd an Injunction not to proceed to Election without his Knowledge; and ſo under the ſpecious Care of preventing or remedying any Diſorders that might happen, he ſent ſome Man of Addreſs to aſſiſt and preſide at the Election, who, by divers Arts and Cabals, procur'd it to fall upon him, whom the Court of *Rome* thought moſt in their Intereſts.

(*d*) Vix enim remanſit aliquis Epiſcopatus, ſive dignitas Eccleſiaſtica, vel etiam Parochialis Eccleſia quæ non fieret litigioſa & Romam deduceretur ipſa cauſa. Sed non manu & vacua lætare ſuperiniquitatem filiorum hominum, quoniam in recompenſationem tantorum malorum datur, tibi pretium. *Abbas Urſpergenſis in Philippo.*

The new Law or Doctrine (ſaith *Meziray*, in the Life of *Philip Auguſtus*) having perverted all the ancient Canons, and reduced all Elections to the Tricks and Subtleties of the Law, as there often happen'd Conteſts, what with Intrigues among the Electors, and Difficulties ſtarted upon the Judgement of the Metropolitan, one of the two Parties never fail'd to appeal to *Rome*; which was an inextricable Labyrinth of Proceedings: And for want of ſome Form in the Election, the Pope declar'd it null, and reſerv'd to himſelf the Right of providing for the Biſhoprick.

CHAP.

CHAP. XXXI.

THUS by the foregoing Accounts it appears, that few Elections to Bishopricks or Abbies were made, which fell not under Consideration at *Rome*, so that the Pope came to intermeddle, almost in all Elections, after they were over, under the Mask of an honest Concern for the Publick Interest, and in that the Electors oftentimes fail'd in some Points of their Duty; it seem'd a favourable Oportunity to afford his Assistance in Elections, even before-hand; commanding, when he saw Cause, either that the Electors should not go to Election till they had his Leave, or not to elect without the Concurrence of some Persons sent by him, to attend it; so that by diverse Contrivances they still assum'd some Share in the Elections.

And yet these Methods which were differently put in Practice, according to the Exigency of the Case, had not the Force of a Law, but rather of Custom and Decency, until the Year 1227, when *Gregory* IX. following the Examples of *Theodosius* and *Justinian*; the former having form'd the Constitution of the Empire, by collecting his own Ordinances, and those of his Predecessors into one Volum, which was afterwards call'd the *Theodosian* Code; the latter having accommodated likewise the ancient Laws to the Usage of his Times, and reduced into one Body the Decrees of his Predecessors, under the Name of the *Justinian* Code; after their manner form'd a Policy or Constitution of his own, collecting into one Body all the Decisions, and all the Causes which serv'd to advance the Papal Power; and extending that to general Usage, which had been settled in one particular Place, and perhaps in one Case only, and abolishing and destroying all the rest, which made against it.

This

This Book was call'd, *The Decretals of* Gregory IX. (*a*), who thereby laid the deepeſt Foundation of the Papal Monarchy, eſpecially in what concerns Benefices: But it muſt be allow'd, that this Book is much more edifying in the skilful managing of a Law-ſuit, than in the Salvation of Souls.

Gratian, as well as the other old Collectors of the Canons, made a Collection of all he thought might moſt contribute to the aggrandizing the Papal Authority, even to the changing, vitiating, and even falſifying the Places from whence he drew the Deciſions (1): By which Means he thought he had done his utmoſt to wind up this Power to the higheſt Pitch it could poſſibly bear: And according to the State of thoſe Times, he was not miſtaken; but a Change of Circumſtances in Affairs, made this Compilation no longer ſeaſonable: And ſo to this Decree or *Decretum* (2) of *Gratian*, which was

(*a*) It was compil'd by his Penitentiary *Raymond de Penafort*, a Dominican, whence it came to be call'd alſo, *The Compilation of* Raymond: It is alſo call'd *Extra*, becauſe it is ſeparated from the Decree compil'd by *Gratian*; and alſo, the *Pentateugh*, becauſe it contains five Books, diſtinguiſh'd in this Diſtick, *Index, Judicium, Clerus, Sponſalia, Crimen.*

Hæc tibi deſignant, quid quæq; volumina ſignant.

It began to be in uſe in the Year 1231. *Gregory* IX. was Nephew to *Innocent* III. and both of the noble Houſe of *Conti*, at this Day one of the four, who have the Title of *Roman* Barons.

(1) A *French* Lawyer ſaith, that the Decretum and the Decretals *ſunt Compilationes ac Farragines tum bonarum tum pravarum rerum incondite & imperitè coercervatæ.* Gentillet. ex Concil. Trid. lib. 5.

(2) Which was approv'd and publiſh'd by Pope *Eugene* III. in 1151, and according to ſome Authorities only under the Pontificate of *Alexander* III. *Gratianum Compilatorem Decreti Alexandri III. Pontificis temporibus quidam aſcribunt*, ſaith *Platina* in the Life of *Innoc.* III. to whom others attribute the Publication of the Decree; as *Platina* alſo obſerves in the ſame Place.

call'd

call'd after him, succeeded the Decretals; but neither of which in Process of Time grew to signify much: The Popes, as they grew in Authority, establishing still new Orders and Regulations; so that neither the *Decretum*, the Decretal, nor the *Sextus* (3), were any longer of use as to Benefices, but other Rules and Methods came in Request, as will appear hereafter.

(3) It is a Book so call'd, because it is a Supplement to the five Books of Decretals. It was publish'd by *Boniface* III. in 1298. from whence it is call'd, *Codex Bonifacianus*.

CHAP. XXXII.

THE large Opportunities which the Court of *Rome* had in their Hands of obliging, by the Disposal of so many Benefices, drew necessarily thither a Concourse of the Clergy of all sorts. Those who had no Benefices, in order to obtain them; and those who had already, to get them chang'd for better: Which was another Reason added to the former, why so many Residentiaries resided not upon the Place. And the Court not being any longer able to pretend Ignorance of so loud and general a Complaint which every Diocess made, That the Churches were abandoned, and left without Government; and of which they laid the Blame in the right Place, a Resolution was taken to apply some Remedy.

But the Popes of that Age thought it not advisable to proceed by Punishment, as had been heretofore practis'd; whether it were that the Guilt was grown too general, or that the Court of *Rome* must

must have been deserted by so severe a Remedy, as that of sending so much Company out of *Rome*: To which another Consequence might be added, that People would generally have chosen rather to have made their Court to their own Bishop for Benefices, than to lay out their Money at *Rome*, in Expectatives or Reversions. An Expedient was therefore found, to make a Law to enjoin Residence to such certain Beneficiaries [who were under so unlucky a Planet] as to have little Interest at Court: And so these stood condemn'd to stay at home, without making any mention of the rest (1), who therefore fell not within this Rule. Thus in the Year 1179, *Alexander* III. order'd Residence to all Beneficiaries that had Cures of Souls *; to whom afterwards were added and taken into the Number, all who had Dignity, Administration, or Canonry.

As for other inferior Beneficiaries, it was never affirm'd that they were not oblig'd to Residence, but neither was it commanded them, and so by Degrees they began to think it not incumbent on them. Hence grew the Distinction betwixt Benefices that oblige to Residence, and others call'd simple Benefices, which oblige to none. Afterwards the Doctors declar'd, that in Strictness, and of Right, all Benefices oblige to Residence; as indeed they cannot say otherways, without giving the Lye to all Antiquity; but that long Custom only hath excepted simple Benefices.

According to the Signification of that common Maxim, *Beneficium datur propter Officium*, simple Be-

(1) Silence in this Case, saith *Fra. Paolo*, they believ'd exempted them from Residence; and the Popes were willing it should be so understood, in the Hopes that the voluntary Ignorance of these Beneficiaries should turn to their temporal Greatness. *Lib.* 2. *Hist. of Counc. of* Trent.

* Vide *cap.* 4, & 6. Extra de Clericis non residentibus.

nefices muſt ſeem an uſeleſs Station in the Church; ſince thoſe who were abſolv'd from Reſidence, ſeem to have no Buſineſs left. But here they have been forc'd to take in Aid, a meer Equivocation: For the *Horæ Canonicales*, which before were celebrated in the Church by all the Congregation, and which ſome Perſons afterwards took the Liberty to perform privately, began about the Year 800 to be call'd *Officium Divinum (a)*. And this Office or Service being by all Believers perform'd either in Publick or private, they ſaved the Appearances of this Propoſition, *Beneficium datur propter Officium*; as if repeating Divine-Service were all that were underſtood by it; when in Truth, ſerving the Faithful, in reſiding at the Churches, and exerciſing the Miniſtry in all Chriſtian Offices, as was done of old, is in Truth that *Officium*, for which the *Beneficium* is intended (2).

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(*a*) Presbyter mane matutinali officio expleto, penſum ſervitutis ſuæ canendo, primam, tertiam, ſextam, nonamq; perſolvat, ita tamen ut poſtea horis competentibus juxta poſſibilitatem, aut a ſe, aut a ſcolaribus, publicè compleantur.

Theſe are the Words of *Reginon*, Author of the 10th Age, *chap.* 208. *lib.* 1. of his Collection. As for the Office of the holy Virgin, *Gaufridus Veſienſis* ſaith, they were not ordered till the Year 1095.

Anno Dom. 1095, Urbanus Papa in Gallias veniens, Gregorii Papæ decreta renovat, & confirmat --- -- Claromonte in Arvernia Concilum celebrat, menſe Novembri hoc anno ſequenti, in quo ſtatutum eſt, ut horæ beatæ Mariæ quotidie dicantur, officiumq; ejus diebus Sabbati fiat. *In Chronico, cap.* 27.

(2) In the primitive Times, ſaith *Fra. Paclò*, the Eccleſiaſtical Degrees were not Dignities nor Honours, as they have been for ſome Ages, but Charges and Miniſtries, which St. *Paul* calls Labours and Functions, and Jeſus calls Labourers, [Opus fac Evangeliſtæ, miniſterium tuum imple, 2 *Tim.* 4. Siquis Epiſcopatum deſiderat, bonum opus deſiderat, 1 *Tim.* 3. Meſſis quidem multa; operarii quidem multi, *Matth.* 9. & *Luke* 10.] So that in thoſe Days

The Consciences of many Beneficiaries being thus secured from any Scruple, in absenting from their Churches, it was also thought necessary to find an Expedient, even for some of those Beneficiaries who were oblig'd to Residence, to stay at *Rome*, when their was Occasion, without breaking the Laws.

Days none could have the Thought of absenting; and if any one did, he could neither keep the Title nor the Profits. ----- Besides, none took an Employment which hinder'd the Functions of his Ministry ---- And it is only since the Year 700, that they began to appropriate the Title and Profits of a Cure, upon occasion of the Changes which happen'd in the Western Churches, where Ecclesiastical Ministeries degenerated into Dignities, Honours, and even into Rewards for Services. And whereas before, they called none to the Ministry, but such as were proper to officiate, it became afterwards a Custom to give the Dignities of the Church according to the Quality of the Person: Whence came the Abuse of doing the Duty by a Deputy; and that produced another Abuse, which was to think one's self dispensed with, not only from officiating in Person, but even from being present, and to rely on his Substitute. And the Distemper had grown so great, as to have endanger'd the very Clerical Order being destroy'd, if the Popes had not commanded the Bishops and Curates, tho' they acted by Deputies, to reside upon the Place, which is call'd Residence; to which the Canons were also oblig'd, without speaking of any other Beneficiaries: From thence came the detestable Distinction of Benefices of Residence and Non-residence; which is authoriz'd both by the Doctrine maintain'd and the Practice. And yet there cannot be a more manifest Absurdity, than to have a Title and a Salary, without being oblig'd to do any thing for it.

But to palliate this, the Canonists have said, That the *axiom Beneficium datur propter Officium*, which condemns Non-residence, signifies only, That the Benefice is given for saying Divine Service only; so that when the Church yields a Revenue of ten thousand Crowns and more, 'tis only that the Beneficiary may say the Breviary very low, without thinking of any thing, more than running over the Words. *Hist. Counc. of* Trent. *lib.* 2.

For this End *Honorius* III. about the Year 1220. declar'd, that whoever was in the Pope's Service, ſhould not be oblig'd to reſide (3): So then there wanted but one Expedient more, by which all thoſe who had rich Benefices, with a Cure of Souls, might be ſet at Liberty, and exempted from Reſidence. Neither did this Expedient fail likewiſe, for it being an ordinary Practice for a Curate, when he had a lawful Impediment, to appoint a Vicar to ſerve in his Room, allowing him a competent Stipend; it was thence determin'd, that with the Pope's Authority the Curate might creat a perpetual Vicar (1), ſettling a reaſonable Allowance upon him; and oblige him to Reſidence, tho' the Curate remain'd unconfin'd, and retain'd the beſt part of the Income to himſelf: So that, by this Means, in Effect, his Share became a ſimple Benefice; and the Vicar's Share became a Proviſion for the Curate.

And as giving a Benefice for any other Conſideration than for the Sake of the Office, (by which was underſtood officiating in Perſon) was unknown to the ancient Church, ſo two Offices were never aſſign'd to one Man; both becauſe of the Impoſſibility of performing them in two Places, and that

(3) Mandamus quatenus non obſtante conſtitutione quæ contra abſentes Canonicos inter vos (*he ſpeaks of the Chapter of* Metz.) dicitur emanaſſe, fructus præbendæ ſuas aſſignetis Mag. Ottoni, in noſtro ſervitio commoranti; cum familiares noſtri qui circa nos ſe obſequiales exhibent univerſi, minori non debeant prærogativa gaudere, quam veſtrum ſinguli, quorum negotia per ſe ipſos ſæpius promoventur,

(1) It appears by ſeveral Paſſages in the Hiſtory of *Mat. Paris*, that Vicarages became in uſe throughout *England* ſometime before the Council of *Lateran*, under *Alexander* III. And for that Reaſon, the firſt three Chapter *Extra de Officio Vicarii*, are addreſs'd to the Biſhops of *England*. See Mr. *Pithon*, *ad cap.* 1. *extra de Officio Vicarii*, and *Thomas Walſingham*, *pag.* 275.

the

the performing one well, was always reputed by these Holy-men a Task sufficient: Besides that there are many Canons which refer to ancient Statutes, by which a Clerk cannot be ordain'd to two Titles, nor serve in two Churches (*a*).

(*a*) Et in illo titulo perseverent, ad quam consecrati sunt, ita ut nullum de alterius titulo presbyterum aut diaconum suscipere præsumat Conc. Calchutense, *an.* 787. *cap.* 6. *Conc. Renense, an.* 813. *cap.* 20. *Conc. Metense, an.* 888. *Can.* 3. *Canon.* 2. § 1. *distinct.* 70. *ex concilio Urbani* II. *habito Placentiæ, an.* 1095. *& Can.* 1. *Caus.* 21. *q.* 1. *ex 7ma Synod. cap.* 15. *an.* 787. *Even among the Heathens, the Priests were oblig'd to Residence,* Quosdam exilia, *saith* Seneca, quosdam sacerdotio uno loco tenent de tranquilitate vitæ. Visus est sibi quis, *saith another Pagan,* ad firmamentum templi Neptuni catena alligatus esse; factus est sacerdos Neptuni; oportebat enim ipsum inseparabilem esse sacerdotem. *Artemidor, lib.* 5. *de somniorum eventibus, Somnio* 1. *Vide Ulpianum in leg.* 2. *ff. de in jus vocando. & leg. pen. ff. de vacat. & excusat. muner.*

CHAP. XXXIII.

IN the Times when the Distinction began betwixt Benefices which oblig'd to Residence, and the other call'd simple Benefices, which oblig'd to none, another Doctrine was set on Foot, That of such Benefices as did not oblige to officiate in Person, it was lawful to hold more than one*: Whence arose the Distinction of Benefices, compatible and incompatible. Those which oblige to Residence, are certainly incompatable with one another, seeing a Man cannot divide himself into two Places; but

* Vide caput dudum 54. extra de electione & ibi gloss. & Garciam de Benef. parte undecima, *cap.* 5 § 2, & 3.

ſimple Benefices, ſeeing they require not perſonal Service, are compatable and conſiſtent with one another, and with other Benefices too.

At firſt they proceeded on this Head with much Caution, contenting themſelves with ſaying, that in caſe a Benefice were not ſufficient to maintain the Incumbent, he might have another which was compatible; but they never had the Hardineſs to carry it ſo far as to a third, or even to two Benefices, if the firſt were ſufficient.

The Biſhop's Authority never went farther than this, but as for the Pope, it was allow'd he might confer more than two Benefices on the ſame Perſon, when the two were not ſufficient to maintain him(1). But then this Sufficiency or Competency, was carved out by the Canoniſts with ſo liberal a Hand *,

(1) The Author gives this Account of the Original of Plurality of Benefices, *in lib.* 2. *Counc. of* Trent. Seeing, ſaith he, the ancient Canons were ſtill in Force, a Clerk could not have two Titles, nor conſequently two Benefices. But the Revenues happening to be diminiſh'd, either by Calamities of War or Inundations, they gave the Benefice to ſome Clerk who had one already, provided he could officiate them both. Which was practis'd after, not in Favour of the Incumbent, but of the Church, where its own Revenue would not maintain a particular Miniſter to its ſelf, that it might not want Divine-Service. But under colour that one Benefice afforded not a ſufficient Subſiſtence, and none would undertake it, they found the way of giving ſeveral Benefices to one Man, tho' it were not neceſſary for the Service of the Churches: And ſo, by little and little, they took off the Mask, by doing that in Favour of the Incumbent, which at firſt was done in Conſideration of the Church only. And ſeeing the World was ſcandaliz'd at this Noveity, the beſt Colour was given to it, that could be, by adding to the diſtinction already made of Benefices of Reſidence and Non-reſidence, another of Benefices compatible and incompatible. By incompatible with one another, they underſtood Benefices of Reſidence, and by Compatible, thoſe of Non-reſidence; which may be held with one another, and with other Benefices too.

* Gloſſa ad Can. Clericus, 1. Cauſ. 21. q. 1.

that

that the Neceſſities of Life were very large; which, ſay they, as to ſimple Prieſts, include whatever is neceſſary, not only for the Maintenance of their own Perſons, but alſo of their Families, their Relations, three Servants and a Horſe; as alſo for Hoſpitality and entertaining Strangers (2). Then if the Beneficiary be a Gentleman, or a Man of Learning (*a*), they allow him over and above this, all that is proper for his Quality. And what they ſay of a Biſhop's Allowance is amazing (3): As for Cardinals, nothing can be ſurprizing that is ſaid of them, when one conſiders the Stile of the Court of *Rome*, *Regibus æquiparantur* (4).

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(2) If this were ſo, there would be at this Day more Prieſts than Laicks; and Princes would be no more than the Portmanteau's of the Popes. But all the Canoniſts are not of this Mind. *Vide Gomez de Expect. Num.* 107. *Flamin. Paris de reſign. benef. lib.* 5. *q.* 6. *Num.* 131. *Azor. p.* 2. *lib.* 6. *cap.* 10. *q.* 8, & 9. *Menoch. de Arbitrar. lib.* 2. *caſu* 216. *Navar. Miſcellan.* 62. *de Orat. & Gloſſ. ad cap.* 5. *extra de peculio Clericorum.*

(*a*) Vide caput de multa 28. in fine. extra de Præbendis.

(3) It is more ſurprizing, to ſee the ſmall Regard the Court of *Rome* hath for the *Italian* Biſhops of the Eccleſiaſtical State, who not only keep ſtanding before Cardinals, but think it no Diſhonour to ſerve them at the Table: With which the Biſhop of five Churches reproacheth the Biſhop of *Rieti* in full Congregation, [*Fra. Paolo, lib.* 6. *Hiſt. Conc. of* Trent.] Beſides that, their Biſhopricks are ſo loaded with Penſions, that they would think themſelves very happy, if the Popes would aſſign them a ſufficient Livelihood and make that the Rule, as the Canoniſts do to ſimple Prieſts.

* Vide Nicol. de Clemangis de corrupto Eccleſiæ ſtatu, *cap.* 11. & Pet. de Aliaco de reform. capitis, ſeu ſtatus Papalis, & ſuæ Rom. Curiæ & Cardinalium.

(4) Whence they conclude, ſaith he, *ibid.* That no Revenue is too great for them, that is not ſuperabounding for Kings themſelves. And 'tis for this Reaſon, that Popes have granted them the Privilege of having *Os apertum ad omnia beneficia, viz.* of being capable of holding all Sorts of Benefices, either Secular or Regular.

But indeed there is nothing in all this, that exceeds the ordinary Terms of speaking on this Subject, seeing it is the Tenent of every Canonist, that the Pope can grant Dispensations for the holding as many Benefices as he pleaseth: And in Effect, Dispensations were grown to such a Height, that *John* XXII. (5) revok'd them all, restraining the Dispensations to two Benefices only (*a*). But then his Reserving to himself the Disposal of all the other Benefices, as shall be shewn when we come to speak of Reservations *, gave ground for the Belief, that he made that Order for his own Profit, and not for the Sake of reforming the Abuse: Especially considering withal the Character of this Pope, who had a particular Talent in all the subtil Ways of improving his Revenues. And the Event made it good, for the Church relapsed into the same Distemper of Pluralities, more fatal, and with more Violence than ever; which we see continued to this Day, in the Practice of Dispensations, with such a Loose to Avarice, as exceeds all Bounds.

All the Canonists and Casuists agree, that Dispensations ought to be granted only for lawful Causes, and that the Pope sins who grants them for any other: But they have not decided, whether he

(5) *James Dessa*, of the Diocess of *Cahors* in *France*, Son of a poor Cobler.

(*a*) Nos omnes & singulas dispensationes super receptione, aut retentione plurium dignitatum, aut beneficiorum, &c. quibus cura animarum sit annexa ---- cuicunq; personæ concessas, (Cardinalibus tamen exceptis) duximus taliter moderandas, quod per moderamen nostrum effrenatum talium beneficiorum multitudinem refrenemus. Statuimus itaq; quod obtinentes pluralitatem hujusmodi beneficiorum ---- unum tantum ex beneficiis quibus cura imminet animarum cum beneficio sine cura quod habere maluerint possint licite retinere *Extravagant tit. de præbendis cap. execrabilis.*

* See the Article 37, and the Note 3.

who

who makes use of such Grant, as is made without lawful Cause, stands acquitted from all Guilt *.

Some say, the Dispensation is good before GOD and Men; others, that is serves to avoid the Penalties of the Canon-Laws, but that in Conscience, and before GOD, it is of no Validity: And to this Opinion, the greater Number of the best and most devout People adhere (*b*). But the other is more agreeable

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* Vide Glossam ad cap. proposuit 4. extra de concess. præbendæ. verb. supra jus.

(*b*) D. Bernard Ep. 7. ad Adum Monachum. Nunquid ideo, *saith he*, aut malum esse desiit, aut minora tum est, quia Papa concessit? quis vero malum esse negent, assensum præbere malo? *Idem lib.* 3. *de Considerat. cap.* 4. *& ep.* 271. *ad Theobald. Com. Companiæ.*

Langius in Chronico Citizensi, anno 1044. *& Rebuff. in praxi benef. tit. de dispens. Num.* 57. A Bishop giving his Opinion in the Council of *Trent*, upon Dispensations, said, That the Council ought to declare, that there ought to be a lawful Cause of Dispensation, and that who grants it otherwise, sins, and cannot be absolv'd without revoking it: And that he who accepts, and makes use of the Dispensation, so far from being faultless, lives in continual Sin as long as he makes use of it. To which others replied, That in Truth, he who grants it without lawful Cause, sins, but that however, the Dispensation holds good, so that the Conscience of him that obtains it, is untouch'd, tho' he knows that the Cause is not lawful. *Fra. Paolò lib.* 2. *Hist. Conc. Trent.*

A *Dominican*, one *Hadrian Valentine*, had the Courage to say, That the Pope being above all human Laws, had full Power to dispense with them, and that even tho' he should grant a Dispensation without Cause, it ought still to be deem'd valid: And that he can also dispense with Divine Laws, provided there were a lawful Cause. He afterwards adds, That tho' Dispensation of a Divine Law, granted without good Cause, were not valid, yet whatever the Dispensation were, every one ought to captivate his Understanding, and believe that there were a lawful Cause.

In the same History, *lib.* 7. *John de Verdun*, a *French Benedictine*, is quite of a different Opinion, Human Laws, saith he, are subject to Dispensation, because of the Imperfection of the Legislator, who cannot foresee all the particular Cases which may call for an Exception: But where God is the Legislator, the

agreeable to the Court of *Rome*, who love not to have the Law given them, or that any Rules ſhould be preſcrib'd to the Papal Authority, eſpecially in the Matter of Benefices. For ſome among them hold, tho' warmly oppoſed by others of the ſame Profeſſion, That the Pope may grant Diſpenſations for holding ſeveral Benefices with Cure of Souls *. Yet the Court of *Rome* hath not taken much Advantage of this Doctrine, ſeeing it hath found out other ways of giving ſeveral Benefices under one Name, and in ſuch Manner, that they ſhould look like one Benefice. One of theſe ways is the Union, the other the *Commendam*; both the Product of the Times we have above-mention'd, and of which it is now proper to treat.

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the Law is without Fault, becauſe nothing can be hid from his Knowledge.

It is not therefore, that he who diſpenſeth, can ever diſengage him who is obliged; nor make him remain obliged, who is deny'd a Diſpenſation if he deſerves one. It is a popular Error to believe that Diſpenſations is a Favour, ſeeing it is an Act of diſtributive Juſtice as much as any: And he ſins, who grants it not to thoſe to whom it is due. The Church is not a Servant, nor is the Pope its Maſter: It is the Pope's Part, who is only Servant of him who has ſet him over the Chriſtian Family, to give to every one what is due to him. *Quem conſtituit Dominus ſupra familiam ſuam, ut det illis in tempore tritici menſuram*, Lucæ 12. Diſpenſation is nothing, but a right Interpretation of the Law; and conſequently the Pope cannot, by his Diſpenſations diſengage thoſe, who really are ob ig'd to obſerve a Law; but he may very well declare to thoſe, who are not under any Obligation to a Law, that they are not oblig'd to obſerve it.

Fra. Paolo in the ſame Hiſtory, *lib.* 7.

I recomend this laſt Inſtruction as deſerving to be deeply engraven in the Hearts of all Chriſtians.

* See *Garcia*, de Benef. *parte* 11. *cap.* 5. *num.* 337.

CHAP.

CHAP. XXXIV.

IT was a Practice of great Antiquity, that when a People by any Calamities, as of War, Plague, or Inundations, were reduced to ſo ſmall a Number, that they could not maintain a Miniſter, the Biſhop committed the Care of them to the neighbouring Curate *, with the ſmall Revenue that was left: And this was call'd uniting the two Cures. In the ſame Manner when Cities became depopulated, and fell to ſuch Decay, that they were not able to afford their Biſhop an honourable Maintenance, the Metropolitan and his Suffragans aſſembled in Council, added two or more Cities to one Dioceſs, and ſo theſe Biſhopricks were called united. On the contrary, when the People in any Place multiplied ſo faſt, that one Curate was not ſufficient for the Charge, the Cure was divided: A Method which continues in uſe to this Day, and a very commendable one, both for the Service of GOD, and the Convenience of the People (*a*).

It was afterwards thought expedient to make Unions, in favour of ſome particular Places of Devotion; and thus divers Benefices became united to Biſhopricks, Monaſteries, or ſome poor Hoſpital. By which Union, the beneficed Perſon ſeems to

* Vide Can. univerſ. cauſ. 10. q. 33. ex concil. Tolet. cap. 4. an. 693.

(*a*) Et Canonica tradit authoritas, & ratio ſuggerit naturalis, ut cum neceſſitas exigit, vel utilias perſuadet, ut unus Epiſcopatus dividatur in plures & plures conjungantur in unum, ne cura paſtoralis deſit alicui, vel aliquid deſit curæ paſtoris, *Innoc.* 3. *ep.* 52. *tom.* 2. *lib.* 10. *ad Epiſcopum Pavienſem.*

hold

hold two Benefices, when in Reality he holds but one (1).

But in order to give two Benefices to the same Person, which were really incompatible and inconsistent to be held together, human Subtilety had invented the way of uniting the one Benefice to the other, during the Life of the Incumbent; so that by giving the principal Benefice, the united one was included in the Gift, and went along with it for Company. By which means the Law against holding more than one Benefice, is saved in Appearance, but in reallity it is a meer Observance of the Words, and a plain Transgression of the Sense: Which the Lawyers call, Evading the Law (2).

This Invention also serv'd to confer Benefices with Cures upon Children, or on illiterate Men, and without any Obligation of taking holy Orders, by uniting the Benefice with Cure, to a simple Benefice for Life; and then by conferring the simple Benefice in Title; and so the Beneficiary became in Possession of the Cure, and the Letter of the Law preserved.

But the valuable Power of uniting Benefices for Life, was reserv'd to none but the Pope alone; nor could the Bishops ever obtain it on any Occasion whatsoever. Some Civilians call this an Union in Name, but in Reallity it is a total Dissolution of the

(1) These Unions of Grace or Favour were forbid by the Council of *Lateran*, and abrogated by the Council of *Basil*, under the general Title of Reservations. *See the Pragmatick Sanction*, de Electionibus & quia verbo, exceptis: Et Guim. *ibidem*.

(2) See Garcia de Benef. parte 12. cap. 2. de unione, num. 84.

Law

Law (3) : And for that Reaſon, hath been prohibited in ſome Countries with great Marks of Deteſtation. This Evil reign'd very long in the Court of *Rome*, but is now worn out, and no longer in any Force (4), with many other Artifices and Subtilties (not to call them Cheats) of the ſame Nature; which are too evident, for Reaſons which ſhall be given, when we come to ſpeak of the Affairs of our own Times.

(3) Thus the Congregation of Cardinals and Biſhops ſpoke to *Paul* III. who had deputed them in 1537. to try to make a Reformation in his Court. Quid de unionibus beneficiorum ad vitam unius, *ſay they*, ne ſcilicet obſtet illa beneficiorum pluralitas ad obtinenda incompatibilia, nonne eſt mera fraus legis?

(4) Since the Council of *Trent*, which aboliſh'd it in the Seſſion 7. *chap.* 7. of the Reformation.

CHAP. XXXV.

Commendams were alſo of a very ancient and laudable Inſtitution; for when an elective Benefice became vacant, ſuch as a Biſhoprick, Abby, or ſome Benefice, that was *Jus-patronatus*, for which the Ordinary could not, for ſome Reaſon, provide immediately, the Care of it was recommended by the Superior to ſome Man of Merit *, who ſhould only take upon him the Direction of it, till the Vacancy ſhould be fill'd up, but who could enjoy none of the Profits: And therefore ſome excellent Perſon was generally pitch'd upon, to whom the Underta-

* Vide Greg. III. lib. 1. ep. 76. lib. 2. Ep. 13, & 35.

king

king was an Expence, and had nothing to recommend it, but the Trouble which he was to undergo for the Service of the Church: But he would have been very improperly said to hold this Benefice in *Commendam*, and consequently, in Reality, had not two Benefices (*a*).

However, not to wrangle about Words, it grew to be a Maxim among the Canonists, That a Clerk might hold two Benefices; one Titular, the other in *Commendam* *. At first, the *Commendam* was to continue only till other Provisions were made; Afterwards it grew to be given for a certain determinate Time, which sometimes prov'd a little with the longest. This occasion'd the Popes prohibiting the Bishops to extend it beyond six Months (*b*), tho' he made it no Rule for himself. On the Contrary, the *Commendams* contracted too much of this Habit, not altogether commendable from the *Roman* Chancellory; for when the Pope would confer a Benefice on any one who happen'd to be incapacitated, either for want of Age, or because the Benefice was regular, and the Person secular, the Pope gave it him in *Commendam*, until he was in a Capacith to take the Title.

(*a*) Quia Commendatio, *say the Canonists*, non facit Prælatum, sed Procuratorem, & qui commendavit, potest revocare, quando vult. Nam commendare nil aliud est quam deponere. *Gloss. can. ad unum* 4. *caus.* 21. *q.* 1.

* Ibidem & cap. Dudum, extra de election.

(*b*) Nemo deinceps, *says* Gregory X. parœcialem ecclesiam alicui non constituto in ætate legitima & sacerdotio commendare præsumat. Nec tali etiam nisi unam, & evidenti necessitate, vel utilitate ipsius Ecclesiæ suadente. Hujusmodi autem commendam ut præmittitur, rite factam declaramus ultra semestris temporis spatium non durare: Statuentes quicquid secus de commendis Ecclesiarum parœcialium actum fuerit, esse irritum ipso jure. *Cap. nemo* 15. *de elect. in sexto an.* 1273.

At

At last, about the Year 1350, the Popes throwing off all sort of Considerations, and having got the other Bishops ty'd down to the Term of six Months, gave a Loose at once to the asserting their own Power, and conferred the *Commendam* for Life: And if this happen to one who hath another incompatible Benefice in Title before, the Letter of the Law is preserved strictly and without Reproach, which forbids two Benefices to be given, unless the one be in Title, the other in *Commendam*: But the Sense or Spirit of the Law is perverted; seeing the Commendatory for Life, as to the Profits, is, to all Intents, the same with the Titular (1). In the same Manner,

(1) When by reason of any Calamity of War or Plague, says the Author in the same Place, an immediate Election could not be made, the Superior recommended the vacant Church to some Person of known Vertue and Ability, who besides the particular Care of his own Church, govern'd in the Vacancy of this, till it was fill'd: And this Commendatory was only the Depository of the Revenues.

Afterwards the Commendatories, under divers Pretences of Necessity and Decency, made use of the Fruits; and that they might enjoy them longer, they put off the Nomination or Election of the Titulars by several Artifices, which occasion'd the fixing the Term of the *Commendam* to six Months. But the Popes making use of their plenary Power, prolong'd the Term, and even granted the *Commendams* for Life, with all the Profits.

This Invention, which in its Original was pious, degenerated into so much Abuse, as to be made use of in corrupt times to countenance Pluralities, of which one sort, they said, was possess'd in Title, the other in *Commendam*; by which, the Words of the Law were observed, but the Sense was defeated; seeing the Commendatory for Life differ'd in nothing from the Titular, [*Witness the Form of Bulls of* Commendam, Curam Monasterii ac regimen & administrationem tibi in spiritualibus & temporalibus plenarie committentes.] And in *lib.* 3. of the same History, he speaks thus, When the Western Empire was ravaged by the barbarous Nations, it happened often that the Churches lost their Pastors, and that those to whom it belong'd to provide others,

others, were hinder'd by the Inroads and continual Violences of this accurſed People.

For this Reaſon, the chief Biſhops of the Province recommended the Orphan Church to ſome vertuous Churchman, till they were at Liberty to chuſe a Paſtor canonically. The Biſhops and neighbouring Curates did the ſame, when ſome Country Pariſh fell vacant. And the Perſon pitch'd on for Commendatory being always a Man of Conſequence, who was much concern'd to anſwer the Expectation had of him, the Church found great Advantage by it. But as Corruption commonly creeps into the beſt things, ſome Commendatories began to divide their Care betwixt the Service of the Church recommended to them, and their particular Intereſt, and the Biſhops to recommend Churches, when there was no Occaſion. So this Abuſe ſtill encreaſing, a Law was neceſſary to limit the Time of the *Commendum* to ſix Months, and to forbid the Commendatory to take any of the Profits. But the Popes, ſetting themſelves above all Law, prolong'd the Term of the *Commendams*, and granted a Part of the Profits to the Adminiſtrators; and afterwards carried things ſo high, as to grant *Commendams* for Life, with all the Revenues. After which they changed alſo the Stile of their Bulls, ſaying, "We recommend this Church "to thee, that thou mayeſt "ſupport thy Condition with "more Eaſe and Decency." [*ut ſtatum tuum juxta gradum tuæ nobilitatis decentius tenere valeas.*] Whereas, the Title before was, "To the End, that "during this Interval, this "Church may be ſerved and "governed." Farther, they order'd, that the *Commendams* ſhould be left wholly to their Diſpoſal, without allowing him who had the Right of Collation to uſe his Right, upon the Death of the Commendatory. Now, as the Commendatories were made by the Popes, and depended only on him, People choſe rather to ſollicite at *Rome* for Benefices in *Commendam*, than for Benefices in Title; ſeeing by this Means, they withdrew themſelves from the Biſhop's Authority, who thus loſt it over moſt of the Churches of their Dioceſſes. Whence it came to paſs, that the Commendataries being no longer accountable to any Body, refrench'd to their own great Advantage all the neceſſary Expences, and let the Buildings go to Ruin; minding nothing but how to ſupport their Condition according to the Tenure of their Bulls.

I thought it proper here to inſert theſe two Pieces of Hiſtory, extracted out of the Hiſtory of the Council of *Trent*, by *Fra. Paolo*, becauſe they give a perfect Account of every Thing that is requir'd to be known, in the Buſineſs of *Commendams*.

Manner,

Manner, as a Benefice given in *Commendam*, to one who hath not the Qualifications requir'd by the Canons, is not offending againſt the Words of the Canons; but the Benefice is given in Effect, tho' not in Words. The *Commendams* of Biſhopricks and other Benefices, are almoſt diſus'd indeed in *Italy*, only there ſtill remain ſome Abbies in *Commendam*, upon Occaſions, which ſhall be mention'd when we come to our own Times.

By the Methods we have deſcrib'd, the Popes drew to themſelves a great Part of the Collation of Benefices, in all the Chriſtian Kingdoms of the Weſt. But in the Eaſtern Churches they were not allow'd to diſpoſe one Benefice, not only towards the latter Times of that Empire, when the *Greeks* ſeperated intirely from the Church of *Rome*, but even when they were united; except in the Parts of *Syria* and *Greece*, when theſe Countries were under the Dominion of the *French* and *Venetians*. And tho' theſe Bulls, which diſpos'd of Benefices in ſome one of the Methods above-mention'd, were for the moſt obey'd yet they met with ſo many Complaints and Murmurings, as made it ſometimes be diſputed, whether the Pope had any Right at all all to ſuch Power.

In *Italy* no Oppoſition was made to it, except by ſome conſcientious Men, who had only the Service of GOD in View: The *Italians*, of whom the *Roman* Courtiers were compos'd, finding their Advantage in this great Authority of the Pope, which help'd them to Revenues beyond the Mountains.

In *Spain*, the Prudence of that Nation eluded all the Artifices of the Court of *Rome*, by Negotiations.

In *England*, where the Benefices are very rich and numerous, the *Roman* Courtiers made ſuch mighty

Acquisitions (2), that in the Year 1232, the Clergy, and the Military Men of the Kingdom, form'd a Confederacy or Association *, and pillaged all the Goods and Revenues of the beneficed *Roman* Clergy throughout the Island (*c*). The Pope commanded the King, under Pain of Excommunication, to chastise them with his Temporal Arms, and the Bishops to excommunicate them: But the Confederates were too strong, either for the Kings to touch them, or the Bishops to excommunicate them. Yet this Interval of Quiet lasted but for a few Years, for Pope *Innocent* IV. a *Genoese* (3), taking Courage, sent one *Martin*, a Kinsman of his, to renew the Pretensions of the Court (*d*): The *English*

(2) *Matth. Paris* saith, That *Gregory* IX. commanded the Archbishop of *Canterbury*, and the Bishops of *Lincoln* and *Sarisbury*, to provide 300 *Romans* with the first Benefices that should be vacant in their Churches, suspending all their Collations, until these 300 were provided for. *Anno.* 1240.

* Matth. Paris in Hen. III. *Anno.* 1231.

(*c*) Eodem anno distracta sunt horrea Romanorum per totam fere Angliam a viris quibusdam armatis, & adhuc ignotis, bonis conditionibus & ad commodum multorum, & opus licet temerarium in solennitate paschali, inchoantes sine contra dictione & libere, quod quandoq; minimos inter pauperes seminantes eos colligere hortabantur. *Idem in Henrico. anno* 1232.

(3) Of the Family of *Fiaschi* of the Counts of *Lavagna*, elected in 1243. call'd the Father of the Canonists.

(*d*) Circum idem tempus misit Dominus novus Papa quendam novum pecuniæ extorsorem magistrum videlicet Martinum, autenticum papale deferentem, & habentem potestatem excommunecundi, suspendendi, & multipliciter voluntati suæ resistentes puniendi. *Idem. Matth. Paris.*

It is observable, that the Popes pretended to so great an Authority over *England*, by Virtue of an ancient Right, founded on the Donation of *Constantin*, by which, all the Islands were given, as was pretended, to the Church of *Rome*.

Ad preces meas illustri Regi Anglorum Henrico II. concessit & dedit (Hadrianus) Hiberniam jure hæreditario possidendam. Nam omnes Insulæ de jure antiquo

Engliſh complain'd to the King, that the *Italians* had got Poſſeſſion of all the Benefices; and the King drove *Martin* out of the Kingdom, and making a Computation of all the Revenues which the Popes drew out of *England*, found they were equal to his own Revenue, which amounted to 60000 Marks (4). And upon his laying theſe Grievances before the Pope, in the Council of *Lyons*, who preſided there in Perſon, he was anſwer'd, That the Council was not aſſembl'd for that Affair (5), nor was the Seaſon proper to remedy it.

While this Council was held in the City of *Lyons*, the Pope had a longing Deſire to beſtow ſome Prebendaries of that Church on ſome of his Relations, which made ſo great a Diſturbance in the City, that on Notice that they were in great Danger of

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tiquo ex donatione Conſtantini, qui eam fundavit, & dotavit, dicuntur ad Rom. Eccleſiam pertinere. *Joannes Sarisburienſis lib.* 4. *Metalogici*, *cap.* 42.

(4) The ſame Hiſtorian ſaith, that the Revenue of the *Italian* Beneficiaries, eſtabliſh'd in *England*, amounted to more than 70 thouſand Marks of Silver; and that *Innocent* IV. had more impoveriſh'd the Church of God, than all the Popes together had done, ſince St. *Peter*.

Epiſcopus Robertus Lincolnienſis fecit a ſuis Clericis diligenter computari, alienorum proventus in Anglia, & inventum eſt, & veraciter compertum eſt, quod Innocentius IV. plus Eccleſiam univerſalem deperaverat quam omnes Prædeceſſores a tempore Papatus primitivi. Redituſq; Clericorum per ipſum in Anglia alienorum, quos Eccleſia Romane ditaverat, ad pluſquam ſeptuaginta millia Marcarum aſcendit, Reditus Regis non ad ejus partem tertiam computatur. *In vita Henrici III. ad anno* 1252.

In another Place, *ad an.* 1255. he calls *Innocent* IV. *Diſſipater Eccleſiæ Dei, & venditor Eccleſiarum.*

(5) He had call'd it, under Pretence of ſending Succours to the Holy-Land, but his true Motive was, to excommunicate the Emperor *Frederic*. *Rainald an.* 1245. § 1. & *Matth. Paris anno* 1245.

being thrown into the *Rhone* (*e*), he sent them privately out of Town.

Nevertheless the Court ceased not to make new Attempts. In the Year 1253, the same Pope commanded *Robert*, Bishop of *Lincoln*, a Person eminent in those Times, for Learning and Strictness of Life, to confer a Benefice upon a *Genoese*, against the Canons: Which appearing both inconvenient and unjust, this Prelate answer'd, That he receiv'd the Apostolick Commands with the Respect due to them, as they were conformable to the Doctrine of the Apostles, but that the *Non-obstantibus* made up of Uncertainties, Inconsistencies, and proceeding from want of Faith, came like a Torrent to overthrow the Peace of *Christendom*: That it was a grievous Sin to take away the Pasture from the Sheep: And that the Apostolick See had all Power to edify but not to destroy (*f*). The Pope was enraged at this

(*e*) Eodem tempore cum vellet Dominus Papa quibusdam Præbendis Lugdunensis Ecclesiæ vacantibus, quosdam alienegenas consanguineos vel affines suas, inconsulto Capitulo intrudere, restiterunt ei in facie. Canonici Lugdunenses, comminantes, & cum juramento obtestantes, quod si tales apud Lugdunum apparerent, non posset eos, vel Archiepiscopus vel Canonici, protegere, quin in Rhodanum mergeretur, *Mat. Paris*, *anno* 1245.

Emeric Gueri, Archbishop of *Lyons*, chuse rather to quit his Archbishoprick, than to see his Church exposed to the Plunder of the Pope. *Gallia Christiana pag.* 324. *Mat. Westminst.*

(*f*) Mandatis Apostolicis, *saith he, in his Answer to the Pope*, affectione filioli devotè & reverenter obedio, his quoq; quæ mandatis Apostolicis adversantur, paternum zelans honorem, adversor & obsto; ad utrumq; enim teneor ex divino mandato ---- Non est igitur literæ, tenor Apostolicæ sanctitati consonus, sed absonus plurimum & discors. Primo, quia de illius literæ, & ei consimilium super accumulato non obstante scatet cataclysmus inconstantiæ audaciæ & procacitatis, inverecundiæ, mentiendi, fallendi, diffidenter alicui credendi, & ex his consequentium vitiorum quorum non est numerus, Christianæ religionis puritatem,

this Answer, and Cardinal *Ægidius*, a *Spaniard*, a prudent Man, endeavour'd to appease him, representing, That proceeding to Extremities, in a Cause so odious in the World, and against a Prelate so universally esteem'd, could have no good Effect (*h*).

But

tatem, & socialis conversationis hominum tranquillitatem commovens, & perturbans. Prætorea ---- non est, nec esse potest, alterum genus peccati tam contrarium Apostolorum doctrinæ, & evangelicæ & ipsi Domino Jesu Christo tam detestabile, & abominabile, quam animas curæ pastoralis officii & ministerii defraudatione mortificate & perdere. *And after some other Remonstrances of the same Strain, he finisheth his Letter thus:* Apostolicæ sedis sanctitas non potest nisi quæ in ædificationem sunt, & non destructionem: Hæc enim est potestatis plenitudo omnia posse in ædificationem: Hæ autem quas vocant, provisiones non sunt in ædificationem, sed in manifestissimam destructionem. Non igitur eas potest beata sedes Apostolica acceptare, quia caro & sanguis (*because* Innocent *gave all the Benefices to his Kindred, and fill'd the* English *Church with* Genoeses) quæ regnum Dei non possidebunt, eas revelavit, *Mat. Paris*, in the Life of *Hen.* III. 1251.

(*g*) Hæc cum ad Papæ audientiam perveniissent, non se capiens præ ira superbo animo ait: Quis est iste senex delirus, surdus, & absurdus, qui facta audax, immo & tenærarius judicat [which of the two doated, the Pope, who broke the Canons, or *Lincoln*, who defended them? Which of them was deaf, *Lincoln*, who hearken'd so well to the Voice of the LORD, or *Innocent*, who was deaf to an Apostolical Prelate, who told him his Duty?] per Petrum & Paulum, [he swore by St. *Peter* and *Paul* against the Bishop of *Lincoln*, who gave him the same Rebuke then, which St. *Paul* had given to St. *Peter*, *quia reprehensibilis erat, & non rectè ambulabat ad veritatem Evangelii*, (Galat. 2.) instead of imitating St. *Peter*, who profited by this Correction] nisi moveret nos innata ingenuitas, ipsum in tantam confusionem præcipitarem, ut toti mundo fabula foret & exemplum. *Ibid.*

(*h*) Non expediret, Domine, ut aliquid durum contra ipsum Episcopum statueremus, ut enim vera fateamur, vera sunt quæ dicit, non possumus eum condemnare. Catholicus est, imo & sanctissimus, nobis religiosior, nobis sanctior, excellentior, & excellentioris vitæ, ita ut non credatur, inter omnes Prælatos majorem, imo nec parem habere. Novit hoc Gallicana & Anglicana Cleri univer-

But whilſt the Pope was meditating which way to be reveng'd, *Robert* died, continuing to ſpeak in the ſame Strain to the laſt Moments of his Life (1): And as he paſs'd for a Saint, the Report went that he wrought Miracles. The Pope, when he heard of his Death, order'd a Proceſs againſt him, to take him out of his Grave, and ſent it to the King to

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univerſitas, noſtra non prævaleret contradictio. Hujuſmodi epiſtolæ veritas, quæ jam forte multis innotuit, multos contra nos poterit commovere. Hæc dixerunt Dominus Ægidius Hiſpanus Cardinalis, & alii, conſilium dantes Domino Papæ ut omnio hæc conniventibus oculis ſub diſſimulatione tranſire permitteret, ne ſuper hoc tumultos excitaretur. *Ibid.*

This Cardinal, by the Teſtimony of the ſaid Mat. Pars, *was a great Man.* Pare carens, *ſaith he,* columna in curia Romana veritatis, & Juſtitiæ, & munerum aſpernator, quæ rigorem æquitatis flectere conſueverunt. *He died* 1255. *aged near* 100 *Years.*

(1) Privelegia ſanctorum Pontificum Rom. Prædeceſſorum ſuorum Papa impudenter annullare per hoc repagulum non-obſtante non erubeſcit: Quod non ſit ſine eorum prejudicio & injuria manifeſta; ſic enim reprobat, & diruit, quod tanti, & tot ſancti ædificaverunt ---- Nonne dicit Papa de ſuis pleriſq; prædeceſſoribus, ille vel ille piæ recordationis prædeceſſor noſter, & ſæpe adhærentes ſancti prædeceſſoris noſtri veſtigiis, &c. Quare ergo, quæ jecerunt, diruunt fundamenta, qui ſequuntur? Nonne plures, divina gratia ſalvati, majores ſunt uno ſolo adhuc periclitante? ---- Unde ergo hæc injuriosa temeritas, privelegia antiquorum ſanctorum multorum in irritum revocare? *That is to ſay,* The Pope is not aſham'd to caſs and annul, with a *non-obſtante,* the Conceſſions and Acts of their holy Predeceſſors, not conſidering the Injury he doth to their Memories, in overturning all their ſpiritual Fabrick. When the Pope ſpeaks of any of his Predeceſſors, doth he not ſay, Our Predeceſſor *N.*--- of pious Memory? And very oft he ſaith, Being willing to follow the Footſteps of our holy Predeceſſor: Will he then ruin the Foundations which others have laid? Many Popes, who, by God's Grace, have happily arriv'd at the Harbour, are not they of greater Weight than one alone, who is in Danger of making Shipwreck? How comes it then, that *Innocent* is ſo bent upon revoking the Privileges, which ſo many holy Fathers have granted? *Matth. Paris,* in the ſame Life.

execute.

execute. But the Night following, *Robert* appear'd to the Pope, either in a Vision or Dream, clad in his Pontifical Robes, and reproaching him for persecuting his Memory, gave him a Blow on his Side with his Cross (*k*), which awaken'd the Pope with an excessive Pain, which continued with him till his Death (*l*).

In the Year 1258, *Alexander* IV. *, his Successor, on the like Occasion excommunicated the Archbishop of *York*, who persevering and justifying him-

(*k*) Hoc anno 1254. Dominus Papa dum iratus supra modum vellet ossa Episcopi Lincolnienſis extra Ecclesiam projicere ---- jussit talem Epistolam scribi Domino Regi Angliæ transmittendam: Sciens quod ipse Rex libenter desæviret in ipsum, [*For, as our Historian saith, 6 or 7 Pages before*, Robert *was* Domini Papæ & Regis redargutor manifestus] sed nocte sequenti apparuit ei idem Episcopus Lincolnienſis pontificalibus redimitus, ac voce terribili ipsum Papam in lecto sine quiete quiescentem aggreditur & affatur pungens ipsum in latere, ictu impetuoso, cuspide baculi sui pastoralis: Et dixit ei, Sinibalde, Papa miserrime, proposuistine ossa mea extra Ecclesiam projicere? Unde hæc tibi temeritas? --- Nullam potestatem in me habere te Dominus a modo patietur: Scripsi tibi in spiritu humilitatis, & dilectionis, ut errores tuos crebros corrigeres: Sed tu monita salubria fascinante corde contempsisti. Væ, qui spernis, nam & tu contemneris, & sic Recedens Robertus ipsum Papam --- dereliquit semineem. *Ibid. anno*, 1254.

(*l*) Papa in Latere quasi pleurisi infirmatus, vel lancea sauciatus: Nec potuit ei Cardinalis Albi Physica Suffragari; non enim pepercit Robertus Lincolnienſis Sinibaldo Januenſi, (*which was the Name and Country of* Innocent) & qui vivum noluerat adire corripientem, sensserat mortuum impingentem. Nec unquam postea ipse Papa unum bonum diem vel prosperum continuavit usq; ad noctem vel noctem usq; ad diem sed in somnem & molestam, *Ibid.*

(*m*) Towards the End of the Year 1254. *Mat. Paris* reports, That *Innocent* being at the Point of Death, and seeing his Friends weep, said to them, *Quid plangitis miseri? Nonne vos omnes divites relinquo? quid amplius exigitis.*

* He was of the House of *Conti*, the same with *Innocent* III. and *Gregory* IX.

self, stood the Persecution with great Fortitude (*n*), and drawing near his End, wrote a Letter of great Prudence to the Pope, exhorting him to imitate his holy Predecessors, and to suppress these Innovations, so injurious to the Church, and so dangerous to the Safety of his own Soul (*o*): And then died, in the Reputation of a Saint and Martyr.

During the Confusions of these Times, there was a Regulation found necessary to be made in *France*, which I shall here recount, introducing it with this

(*n*) Anno 1257, aggravavit manum suam Dom. Papa in Archiepiscopum Eboracens. jussitq; eum ignominiose nimis in tota Anglia excommunicari. Ipse tamen Archiepiscopus exemplo B. Thomæ Martyris nec non B. Rob. Episcopi Lincolniensis fidelitate eruditus de solatio celitùs mittendo minime desperavit, omnem papalem tyrannidem patienter sustinendo. *And* 8 *Pages after*, Renuit genua flectere Baal, & indignis Barbaris opima beneficia Ecclesiæ suæ, quasi Margaritas porcis, imo spurcis distribuere. *Ibid. And* 4 *or* 5 *Pages after*, Nec censeo prætereundum quod B. Edmundus Lector in Theologia Oxonialis (*And afterwards Archbishop of* Canterbury) ei dicere consuevit. Oh Sewale (*which was the Name of this Archbishop of* York) Martyr ab hoc seculo transmigrabis, ferro, vel saltem gravibus, & insuperabilibus in mundo tribulationibus impetitus & trucidatus, *Ibid. ad an.* 1257, 1258.

(*o*) In amaritudine animæ scripsit Papæ exemplo Roberti Lincolniensis Episcopi provocatus, dolens inconsolabiliter, quod tam multiformiter ipsum fatigarat, eo quod inexpertos, & linguæ Anglicanæ ignaros renuit acceptare, nunc suspendendo, nunc ab Ecclesia eliminando, nunc crucem adferendo, &c. (*the Pope had forbid his first Almoner to carry the Cross before him, as was the Custom*) Conquestus est insuper graviter, quod impetus quorundam Clericorum authoritate papali protervientium ægrè sustinuerat, sed patienter, ut probra Patris, non ut Cham revelando derideret, sed ut Sem absconderet & velaret. Humiliter ergò in scripto suo & instanter petiit, ut consuetas tyrannides temperaret, humilitatem sanctorum Prædecessorum suorum sequendo. Dixit Dominus Petro, pasce oves meas, non tonde, non excoria, non eviscera, vel devorando consume: *That is, Feed my Sheep, and not sheer them, nor tear out their Bowels nor devour them.*

As some Bishops have done, of whom nothing is to be obtain'd, but for ready Money.

Obser-

Obſervation, That in Spight of all the Reſiſtance and Defence made by the Princes and Biſhops againſt the Attacks of the Church of *Rome*, She has never loſt Courage in the ſharpeſt Conflicts, or betray'd the leaſt Thought of deſiſting from her Pretenſions.

On the Contrary, purſuant to theſe, in the Year 1266, *Clement* IV. form'd the Project, which would have put him or his Succeſſors into the abſolute Poſſeſſion of all the Collations of Benefices throughout the Chriſtian World; and withal have freed him from the Servitude of inventing inceſſantly new Shifts and Fineſſes, to draw the Collations to *Rome.*

This Pope, therefore, begun with a Bull, which concluded no farther, than what concern'd the Reſervation of Benefices *vacantes in Curia*; the Collation of which, he ſaith, is reſerv'd to the Pope, by ancient Cuſtom; which, conſequently, he approves, and that it is his Pleaſure it ſhould be obſerv'd: But tho' he concludes no more than this, he had ſupply'd it with a Preface of the ſtrongeſt Suppoſitions, in theſe Terms: "Altho' the intire Diſpo-"ſition of all Benefices belong ſo juſtly to the "Pope, that he might not only confer them when "vacant, but alſo grant a Right of acquiring, or "of Prevention, before they are vacant: Never-"theleſs, ancient Cuſtom hath more particularly "reſerv'd thoſe *vacantes in Curia*: Therefore We "approve this Cuſtom (*p*)."

If

(*p*) Licet Eccleſiarum, perſonatuum, dignitatum aliorumq; beneficiorum Eccleſiaſticorum plenaria diſpoſitio ad Romanum noſcatur Pontificem pertinere ita quod non ſolum ipſa cum vacant, poteſt de jure conferre verum etiam jus in ipſis tribuere vacaturis: collationem tamen Eccleſiarum, dignitatum, & beneficiorum apud ſedem Apoſtolicam vacantium,

If the Decree had concluded ſuitably to his Inclinations, of declaring that the Diſpoſition of all Benefices belong'd to him, an univerſal Outcry muſt have follow'd, and he have drawn all Orders of Men, Eccleſiaſticks as well as Princes, and other Lay Patrons upon him; all would have been alarm'd, and have ſtood to their Arms, with Manifeſtos and Publications of their Reaſons, too loud to be born: Whereas a Propoſition, ſtated upon a Suppoſition, without ſeeming to make any Concluſion, paſs'd the more eaſily upon the Generality of Men, who were not ſenſible how much it imported, and in Effect it implied.

However, two Years after, in the Year 1268, St. *Lewis*, King of *France*, without having any Regard to this Bull of *Clement* IV. ſeeing the Regulations made by the Queen Regent his Mother, during his Minority, and Abſence in the Holy-Land, were not of Efficacy to remedy the Abuſes crept in by the Diſpenſations of Benefices, made his famous *Pragmatick* *; wherein he commands, that the Cathedrals

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cantium, ſpecialius ceteris antiqua conſuetudo Romanis Pontifibus reſervavit.

Nos itaq; laudabilem reputantes hujuſmodi conſuetudinem, & eam authoritate Apoſtolica approbantes, ac nihilominus volentes ipſam inviolabiliter obſervari, eadem authoritate ſtatuimus, ut beneficia quæ apud ſedem ipſam deinceps vacare contigerit, aliquis præter Romanum Pontificem conferre alicui, ſeu aliquibus non præſumat. *Sexti Decret. lib.* 3. *tit. de Præbendis, cap.* 2.

* It is much doubted, if this *Pragmatick* were made by St. *Lewis* or no, the Writers of that Time making no Mention of it. Beſides that, it no where appears, that the Pope who reign'd then, had any Difference with this King, which had been unavoidable, if this *Pragmatick* had been his.

The Cardinal *de Beurdeille*, who refuted it in the Time of *Lewis* XI. in a ſmall Treatiſe, entitled, *Defenſorum Concordatorum inter ſedem Apoſtolicam, & Regem Franciæ Ludov. II.* ſeems

Cathedrals and Monasteries should enjoy their Elects free and uncontroul'd, that all the other Benefices should be dispos'd as the Law directed; and that no Impositions of the Court of *Rome* should be levied upon the Benefices, without the King's Consent, and that of the *Gallican* Church (*q*).

But the Expedition of this pious Prince into *Africk* against the *Moors*, and his Death, which happen'd in the Year 1270. the Interest which the

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seems to say, that it was not made by St. *Lewis* in these Terms:

Quod autem eidem ascribitur feciſſe Pragmaticam per quam quidem juſtificare nituntur Pragmaticam per ſereniſſimum Principem Carolum Regem [VII.] domini noſtri Ludovici genitorem editam, & per eundem Dominum noſtrum Ludovicum, catholice nuper abrogatam, nihil proderit eis, neq; prodeſſe poteſt, ſi attendantur ſingula verba ejuſdem ſancti ſub tenore hujus aſcriptæ ſibi Pragmaticæ contenta, quæ talis ab aliquibus aſſeritur. Ludovicus Dei gratia Francorum Rex ad perpetuam rei memoriam, &c.

Our Kings having never uſed this Form, which is ſacred only to the Popes Bulls.

(*q*) Statuimus & ordinamus primo ut Eccleſiarum regni noſtri Prælati, Patroni, & beneficiorum collatores ordinarii jus ſuum plenarie habeant, & uncuiq; ſua juriſdictio ſervetur --- Item promotiones, collationes, proviſiones, & diſpoſitiones Prælaturarum, dignitatum, & aliorum quorum cunq; beneficiorum, & officiorum Eccleſiaſticorum Regni noſtri, ſecundum diſpoſitionem, ordinationem & determinationem juris communis, ſacrorum conciliorum Eccleſiæ Dei, & inſtitutorum antiquorum ſanctorum Patrum, fieri, volumus, & ordinamus.

Item exactiones & onera graviſſima pecuniarum per curiam Romanam Eccleſiæ regni noſtri impoſita, vel impoſitas, quibus miſerabiliter regnum noſtrum depauperatum extitit: Sive etiam imponendas, vel imponenda, levari aut colligi nullatenus volumus, niſi duntaxat pro rationabili, pia & urgentiſſima cauſa vel inevitabili neceſſitate, & de Spontaneo, & expreſſo conſenſu noſtro & ipſius Eccleſiæ regni noſtri.

Nicholas Giles, in the Life of St. *Lewis*, and the Compiler of the Proofs of the Liberties of the *Gallican* Church, aſſures us, that this Act is found in the Regiſter of the Parliamant. See the Preface of Mr. *Pinſon* upon this *Pragmatick*, *pag.* 30. *num.* 61. and the following ones.

Houſe

Houſe of *Anjou* had in preſerving the Pope's Favour, to eſtabliſh the Poſſeſſion of the Kingdom of *Naples*, and to recover that of *Sicily*; together with the Permiſſion the Pope had granted the King, to gather Tythes in his Dominions, under the Pretext of carrying on the War in the Holy-Land, were all powerful Concurrents to facilitate the Authority the Pope had loſt. And Pope *Boniface* VIII. made it ample Reparation, who in the Year 1298. inſerted the Conſtitution of *Clement* in the Decretals, only with ſome Ammendment, in making that now the principal Sentence, which was before mention'd only as it were occaſionally, and by way of *Hypotheſis*. And to give more Force to this Bull by the Uncertainty, he ſent it out under the Name of *Clement* only, without expreſſing whether it were the Fourth or Third *Clement*: And that Doubt we find continu'd to this Day, in the different Copies extant; in ſome of which he is call'd the Third, and in others the Fourth *.

Then it was that this Propoſition firſt began to be be admitted for Truth, That the abſolute Diſpoſition of all Benefices belong to the Pope; which they pretended to underſtand in a Senſe not altogether abſurd; which is, That the Pope hath a plenary Power, but under the Regulations of Laws and Reaſon (*r*).

But *Clement* V. explain'd himſelf in a Manner ſo clear, as to leave no Room for any favourable Interpretations, declaring, That the Pope hath not only full Power of diſpoſing all Benefices, but alſo

* In the Edition of *Lions*, the Subſcription of the Title *de Præbendis*, is *Clemens* III. alias IV.

(*r*) Quod Papa omnia poteſt, præmiſſa clavi diſcretionis ante clavem poteſtatis. *cap. quanto, de jurejurando.*

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an intire Liberty in the Manner of disposing them(*f*). By which Liberty the Canonists understand, That he is exempted from Obedience either to Laws or Reason itself; and that he hath a Privilege of disposing Benefices in what Manner soever, even against Reason, the Interest of any particular Church, or of any Lay Patron whatsoever.

This Doctrine is asserted on all Occasions in the Bulls, and there is no Canonist, who holds it not even as an Article of his Faith, That in the Collation of all Benefices whatsoever, the Pope can concur with the ordinary Collator, and even prevent him; and may grant the Power of concurring with the Collator, and even of conferring Benefices by Prevention, to whomsoever, and when he pleaseth: Which is a Power since granted by the Popes to their Legates, by a general Constitution.

In all the Consideration of this whole Matter of Benefices, nothing is more surprizing, than that which hath been all along maintain'd by the Canonists to this Day, without any Regard to a Truth so notorious, either out of Animosity, or because they think it is a Wrong to their Profession, to pretend to know any thing that is not drawn out of the Decretals, That heretofore the Pope conferr'd all Bishopricks and other Benefices, and that since, he hath granted away, out of meer Grace, the Election to the Chapters, and the Collation to the Bishops: Tho' the Light at Noon-day is not clearer, than that the Election of Ecclesiastical Ministers was first in the People; that afterwards it came into the Princes Hands, when they had receiv'd the Chri-

(*f*) Salva in omnibus Rom. Pontificis potestate, ad quam Ecclesiarum, personatuum, dignitatum aliorumq; beneficiorum ecclesiasticorum plena, & libera dispositio, ex suæ potestatis plenitudine noscitur pertinere. *Clementin, lib. 2. tit. 5. cap. 1.*

stian

ſtian Faith, and had taken the Affairs of the Church into their Care: And laſtly, that the Elections reſted in the Clergy only, after the Seculars had been excluded by the Artifices of *Gregory* VI. and his Succeſſors: Every Dioceſs ſtill retaining its own Right of electing and, of collating its own Benefices; which the Popes have, by Degrees, inſenſibly aſſum'd to themſelves, by ſuch Methods as have been already ſhew'd, and ſuch as will appear in the following Diſcourſe.

In the mean time, there is no Doubt to be made, but that this Aſſertion of the Canoniſts will one Day come to be rank'd among the Articles of our Faith, in order to introduce into the Church a Doctrine, ſo diametrically oppoſite to that which was preach'd in thoſe Times. For *Anſelm* Biſhop of *Lucca*, who in the Year 1080, wrote three Books againſt *Gilbert* the Antepope *, in Favour of *Gregory* VII. which are yet extant, proves throughout the ſecond of thoſe Books, that by the Authority of the Popes, the holy Fathers, the General Councils, and by the conſtant Uſage obſerved from the Times of the Apoſtles, down to the Times wherein he wrote, That the Election of the Biſhops, which he calls *Pontifices* †, belong'd to the Clergy, and People of the particular Dioceſs: And that the Emperors *Conſtantine*, *Conſtans*, *Valentinian*, *Theodoſius*, *Honorius*, *Charlemaign*, *Lewis the Debonair*, with divers others excelling in Piety and Faith, have never violated this Uſage, ſince the Times of the Apoſtles: And citing withal, a Conſtitution of the

* Or *Wibert* called *Clement* III. formerly Archb. of *Ravenna*, of whom is ſpoken in the Notes of the 23d Article.

† Not to call them *Papæ* in the plural, which, he ſaith, is as improper and impious, applied here, as to the Name of God. *See in the End of the 18th Article.*

Capitular

Capitular of *Charles* and *Lewis*, in which it is declar'd, That Biſhops ſhall be choſen by the Clergy and People of the Dioceſs, according to the Canons (*t*), he ſaith, That this is a Conſtitution intirely conformable to that of the holy Fathers; and that the Holy Spirit ſpoke no leſs by the Mouths of theſe Emperors, than if it had been pronounced by the Council of *Nice*, or any other general Synod.

By which it is evident, That in order to draw the Right of Election out of the Hands of the Princes, they have held for Tradition the direct contrary to that which they would have us this Day believe, and which the Canoniſts teach: So that neceſſarily either the Canoniſts muſt err, or thoſe Authorities quotted by the Biſhop of *Lucca*. And if the electing their own Biſhops were a Liberty which JESUS CHRIST had bequeath'd to every Church and Dioceſs, conſonant to the Doctrine of the Fathers and Councils, they are not ſo much in the Wrong who ſay, That the Court of *Rome* hath put all the Churches in Chains and Bondage, under the Colour of defending their Liberties *.

(*t*) Sacrorum Canonum non ignari, ut in Dei nomine ſancta Eccleſia ſuo liberius potiretur honore, adſenſum ordini Eccleſiaſtico præbuimus, ut ſcil. Epiſcopi per electionem Cleri & populi, ſecund. ſtatuta Canonum de propria Dioceſi, remota perſonarum & munerum acceptione ob vitæ meritum, & ſapientiæ donum, eligantur, ut exemplo & verbo ſibi ſubjectis, uſq; quaq; prodeſſe valeant. *Capitular, lib.* 1. *cap.* 78. *See the page* 2. *of Article* 15.

* See Article 7.

CHAP.

CHAP. XXXVI.

HAving set forth the various Methods whereby the Church has acquir'd her Riches, our Subject requires, that we should now be as particular in the Methods taken to preserve them. In order to which, in direct Opposition to all the Practice of the Primitive Church, all sort of Alienations are forbid. For tho' the Churches, after they were made capable by the Laws to acquire Estates, retain'd both these which were given in Present or bequeath'd, the Bishop had still the Liberty, not only to make use of the Revenues, but even to sell the very Estates for the Maintenance of the Ministers of the Altar, and Relief of the Poor *; and to bestow in Charities, according to the Exigencies of the Times: And this Power of Dispensation extended itself not only to the growing Rents, as in these Days, but to the Estates themselves, and every Branch of Revenue. Which at first was administer'd with great Fairness and Integrity, and without any inconvenient Consequences, and continued to be so while the Churches were poor, and the Bishops had but a little to manage, and were of small Authority, which afforded them no Opportunities of great Transgressions. But when the Churches grew rich and powerful, a Fulness of Fortune, and the Reputation and Interest waiting on those Circumstances, brought the Bishops into the Temptation of employing some Part of the Revenues at their own Pleasure, and inspir'd them with a Boldness to attempt things, which would

* Vide Can. 23, 24, & 26. Caus. 12, q. 1.

not

not ordinarily have been permitted; then they began to exceed all Bounds of Modesty, and then Dispensations of Charity grew into Dissipation and Profusion.

This made it necessary to provide against this Evil, but the Remedy was to come not from the Ecclesiasticks, but from the Seculars, who indeed had born all the Loss: As for any Diminution of the Estates of the Church, the Poor, who had the last Part *, only felt it, and not the Clergy, who had the two first Parts.

As the Churches of *Rome* and *Constantinople* were the two principal and most considerable, it was proper to begin the Cure there. Accordingly *Leo* the Emperor, by an Edict (1), in the Year 470. forbad all sort of Alienations in the Church of *Constantinople*. And in the Year 483, *Basilius Cecina Præfectus Pretorio*, Captain of the Guards to *Odoacer* King of *Rome*, by a Decree made in the Church during the Vacancy of the See, upon the Death of Pope *Simplicius* (2), order'd, that the Estates of the Church should not be alienated: And to the three succeeding Popes (3) nothing appear'd extraordinary in all this. But *Odoacer* being extinct, and all his Greatness with him, Pope *Simmacus* in the Year 502, assembled (4) a Council of all *Italy*, in which he represented as a great Absurdity, That a Lay-man

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* See the Articles or Chapters 7 and 9.

(1) This is Cod. 14. *de sacro-sanctis Ecclesiis*, which is the Law of *Leo* and *Antemius*.

(2) *Odoacer*, saith *Matchiavel*, having possess'd himself of the Empire, kill'd *Orestis*, and put to Flight his Son *Augustulus*, quitted the Title of Emperor, and made himself be call'd King of *Rome*: That *Rome* might change its Tittle, as well as its Prince. *lib.* 1. *Hist. of* Florence.

(3) *Felix* II. according to others the III. *Gelasius* I. and *Anastasius* II.

(4) At *Ravenna*.

should make Constitutions in the Church; and with the Advice of that Council, declar'd them invalid: But to avoid the Suspicion of his designing to foment any farther Disorders, it was decreed in the same Council, That neither the *Roman* Pontiff, nor any other Ministers of that Church, could alienate any of her Estates (5), withal declaring, that this Decree was not intended to bind any other Church than that of *Rome* only.

Succeeding times made it evident, that the same Law was as necessary in all the other Churches: And therefore *Anastasius* extended the Law of *Leo* to all the Churches subject to the Patriarchat of *Constantinople*, prohibiting them also to alienate (6).

But in the Year 535, *Justinian* made a general Edict, which comprehending all the Churches of the East, the West, of *Africk*, and even all Religious Places, which forbad all Alienations to any Purpose whatsoever, unless in the Case of sustaining the Poor in the time of some extraordinary Famine, or for redeeming Captives (7); in which two Cases, Alienations were not only allow'd, conformable to ancient Custom, but St. *Ambrose* maketh mention, that the Estates of the Church, and even the consecrated Vessels (*a*), might be sold.

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(5) This Canon is reported by *Gratian*, *Cauf.* 12. *q.* 2. *Canon. Non liceat*, 20.

(6) It is the 17th Law, *Cod. de sacro-sanctis Ecclesiis.*

(7) It is the Novel 7th, *cap.* 1. *tit.* 1. *coll.* 2.

(*a*) Pro redemption. Captivorum, *saith St.* Thomas, & aliis necessitatibus pauperum, vasa cultui divino dicata distrahuntur, ut Ambrosius dicit 2a. 2æ. quæst. 185. art. 7. in resp. ad 3. Videtur, *saith* Cajetan, Ibid. quod in casu necessitatis pauperum posset portio Ecclesiæ fabricæ debita pro pauperibus dispensari --- Nam principalis intentio juris ad fabricas vivas refertur.

This

This Law of *Justinian* was observ'd in the Western Empire(8), whilst *Rome* remain'd subject to the Emperors of the East; and there are many Letters extant of St. *Gregory*, which make mention of Goods alienated for the Redemption of Christian Slaves: And for the Space of 200 Years, from *Pelagius* II. to *Hadrian* I. (9), the *Roman* Church was at an incredible Expence to redeem themselves from the Ravages of the *Lumbards*, to save their Towns that were besieg'd, and to purchase Safeguards for the Country: And the same Pope *Gregory* gives a clear and satisfactory Testimony of this Matter in his Time.

The currant Doctrine which is advanc'd at this Day, that the Goods and Estates of the Church are exempt from the publick Taxes, found no Countenance in those Days; but on the contrary, those Estates were the first that were employ'd, before any Contributions were laid on private Families. And it never yet came into Dispute, whether Princes have Authority to make Laws, which besides the Force of Custom and Prescription, is founded on the strongest Foundation, if we consider these Goods as the Goods of the Church; that is, that they belong'd to the whole Body or Community of Believers (11), and consequently, that it was

(8) This Law was confirm'd by *Charlemaign*, as to the Churches, which were *sub ditione Romana*. lib. 2. Capitular cap. 29.

(9) *Pelagius* was chosen in 579. and *Hadrian* in 772.

(10) See *chap.* 9. of the Constitutions of *Emanuel Comnenius*, who began to exempt the Churches of the East from these Payments; and the *Law* 1. of the *Theodosian* Code, *de annona & tributis*, & *ibi Gothofred*, as also the *Canons* 21, & 22. *Caus.* 23. *q.* 8.

(11) For in the first Ages of Christianity, the Name of the Church was common to all the Congregation of the Faithful, as well as the temporal Estates of the Church.

incumbent on the Prince, to provide for their Preservation.

After the Empire was establish'd in *Charlemaign*, and the *Roman* Laws had lost their Force, the Abuse crept in again; which occasion'd several Prohibitions in several Councils (12), chiefly in *France*, where the Dissipations of the Church Estates were most extravagant (13). But after the Popes had insinuated

(12) The Councils of *Meaux* and *Beavois*, held in 845. *Can.* 17 and 18. of the first, *Can.* 3, and 4 of the 2d. *Concil. Agathense anni* 506. *sub Clodoveo*, *Can.* 7. Casellas vel mancipiola Ecclesiæ Episcopi, sicut prisca canonum præcepit authoritas, vel vasa ministerii, quasi commendata fideli proposito, integro Ecclesiæ jure, possideant, id est, ut neq; vendant, neq; per quoscunq; contractus, res, unde pauperes vivunt, alienare præsumant. Quod si necessitas certa compulerit, ut pro Ecclesiæ aut necessitate, aut utilitate vel in usufructu, vel in directa venditione, aliquid distrahatur, apud duos vel tres Comprovinciales, vel vicinos Episcopos, causa qua necesse sit, vendi, primitus, comprobetur, & habita discussione sacerdotali, eorum subscriptione, quæ facta fuerit venditio roboretur. Aliter facta venditio, vel translatio non valebit.

(13) If the Bishops of *France* did not make Waste of the Church Estates, it was not for the Reason *Fra. Paul* gives, that the *Roman* Laws were no longer in Force there; but because neither the Constitution of *Leo* in 470, nor that of *Anastasius*, nor of *Justinian*, were comprehended in the *Theodosian* Code, which had been publish'd in 438. which was 32 Years before the Edict of *Leo*. For the *Gallican* Church acknowledg'd no other Laws, than those of this Code.

Ut omnis Ordo, *saith the Capitular of* Lewis the Debonair, secundum legem Romanam vivat. *tom.* 1. *pag.* 690.

Hoc etiam volumus, ut qualiscunq; Francus Ripuarius servum suum pro remedio animæ suæ secund. legem Romanam liberum facere voluerit, ut in Ecclesia coram presbyteris, diaconis, seu cuncto Clero, & plebe in manu Episcopi servum cum tabulis tradat, & Episcopus Archiadecano jubeat, ut ei tabulas secundum legem Romanam qua Ecclesiæ vivunt, scribere faciat. *Regino. lib.* 1. *de Ecclesiastic. disciplinus, cap.* 405. *Janus a Costa ad tit. Extra de servis non ordinandis, pag.* 116. So that it is no wonder if *Charlemaign* permitted the Bishops

insinuated themselves into the greatest Share of the Government of other Churches, finding the general Prohibition to prevent Dissipations, render'd in a great Measure ineffectual by the Bishops, who found Pretexts to except all particular Cases out of the general Law, they made divers Ordinances *, from from the Year 1000, until 1250, in which were prescrib'd certain little Forms of Solemnity and Ceremony, which the Bishops were oblig'd to observe, and which serv'd as some Restraint and Check to this Profusion †. And *Gregory* X. § in the Council of *Lyons*, held in the Year 1274, order'd, that besides these Forms, Alienations should not be good without License from the Pope; which hath been, and is observ'd to this Day; no Alienation being ever allow'd, unless the Utility of it be evident.

But this Utility hath not fail'd to be particularly remark'd and censur'd as a real Injustice. For tho' the End of all Contracts is to make Things equal, an Advantage on one Side turning to the Detriment of the other, yet the Canonists have ventur'd to determine the Utility which the Church ought to receive in alienating; some of them having been pleas'd to say, that it ought to be a 3d Part of the Value, others, a 4th: Which hath intirely put an End to the Custom of selling Estates to maintain the Poor in an extraordinary Famine, or to redeem Slaves; since in their Construction, this must have

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shops to dispose the Estates of the Church, *Capitulari* 3. *incerti anni, cap.* 3. *tom.* 1. *column* 527. Nor if in the *German* Laws, *tit.* 20. the Alienations of these Goods be forbid to none but the Priests, *tom.* 1. *Capitular. col.* 62.

* See the Canon, Alienations Caus. 12. q. 2. ann. 1123.

† See the Chap. 1. de rebus Ecclesiæ non alienandis in Sexto.

§ Chap. 2. de rebus Ecclesiæ non alienandis in sexto.

turned to the Loss, and not the Advantage of the Church.

And thus Things seem to be inverted: To sell and give to the Poor (*b*), which in former Times was the highest Christian Perfection, would, at this Day, incur great Censures: And it now consists in retaining the Possessions of the Church, without a Power even of making any Exchanges, or changing the Property of them on any Occasion whatsoever, unless upon an evident Advantage: And the Laws against Alienations, which were begun in Favour of the Laity against the Church-men, are now turn'd in their Favour, against the Laity.

(*b*) Omnes, qui credebant, possessiones & substantias vendebant, & dividebant illa omnibus, prout cuiq; opus erat, *Act. Apost.* 2.

Vendite quæ possidetis, & date Eleemosynam, *Lucæ* 12.

Si vis perfectus esse, vende quæ habes, & da pauperibus, *Matth.* 19.

Si necessitas immineat pauperibus erogandi, *saith St.* Thomas, superflua cura est, & inordinata, ut aliquis in futurum conservet (bona Ecclesiæ) quod Dominus prohibet. *Matth.* 6. Dicens, nolite soliciti esse in Crastinum. 2*a.* 2*æ.* *quæst.* 185. *art* 7. *in fine.*

CHAP.

CHAP. XXXVII.

BUT to return to the Declaration of *Clement* IV. and *Clement* V. and the avow'd Doctrine of thoſe Times, which gives the Pope the Right of concurring with all Collators of Benefices, and even of preventing them: This prov'd of no great Advantage, except from the vacant Benefices in the neighbouring Places to *Rome*, where the Vacancy would ſoon be known. As for thoſe which happen'd in Places remote, the Power of concurring or of preventing was of no Service to the Court, becauſe the Ordinary would have diſpos'd, before the other could have Notice of the Vacancy.

This put the Court upon an Expedient, which made an univerſal Change as to the Benefices, and intirely deſtroy'd the ancient Inſtitution throughout the whole Catholick Church. This was the Reſervation, a Decree, whereby the Pope declares before a Benefice be vacant, That no Perſon ſhall take upon him to confer it when it ſhall be vacant; and that if any Collation ſhall be made, it ſhall be void.

And becauſe this Matter was ſo odious in the World, (as all the Comments that are made upon it confeſs) that it was to be uſed very ſparingly, and great Management was requir'd in preparing and making it to be receiv'd, the abſolute Reſervation which *Clement* IV. had made of all Benefices, *vacantes in Curia*, appear'd too ſevere: Therefore *Gre-*

gory X. (1), restrain'd it to a Month only; at the End of which he allow'd the Collators to make the ordinary Provisions.

Clement V. (2) added to this, the Reservation of the Benefices of the Cathedral Church, and of the Monastery of St. *Cros* of *Bourdeaux* for one Time, or Presentation only (3).

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(1) Statutum Clementis Papæ prædec nostri de dignitatibus, & beneficiis in Curia romana vacantibus, nequaquam per alium quam per Rom. Pontificem conferendis decernimus taliter moderandum: ut ij ad quos eorundem beneficiorum spectat collatio, statuto prædicto non obstante demum post mensem a die quo beneficia ipsa vacaverint, numerandum ea conferre valeant, 6 *Decretal* 3. *tit. de præbendis, cap.* 3. Nos tot malis occurrere cupientes, omnes & singulas dispensationes sub receptione, aut retentione plurium dignitatum quibus cura animarum sit annexa--- cuicunq; personæ concessas (Cardinalibus tamen S. R. E. qui circa nos universali Ecclesiæ serviendo, singularum Ecclesiarum comoditatibus se impendunt, ac Regum filiis duntaxat exceptis) [*scr at* Rome *the Cardinals* Regibus æquiparantur.] duximus taliter moderandas, quod per moderamen nostrum effrenatam talium beneficiorum multitudinem refrenemus, ipsique impetrantes fructu dispensationum hujusmodi totaliter non frustrentur. Statuimusitaq; quod obtinentes nunc ex dispensatione legitima pluralitatem hujusmodi beneficiorum ---- unum tantum ex beneficiis, quibus cura imminet animarum cum dignitate, vel beneficio sine cura quod habere maluerint, possint licite retinere. *And one Page after,* Quæ omnia & singula beneficia vacatura, vel dimissa, nostræ, & sedis Apost. dispositioni reservamus: Inhibentes ne quis, præter Rom. Pontificem de hujusmodi beneficiis disponere, vel circa illa per viam permutationis, vel alias, innovare quoquomodo præsumat. *Extravag. tit. de præb. cap. Execrabilis.*

(2) Who succeeded next to him.

(3) Specialiter Burdegalensem Ecclesiam, & monasterium sanctæ Crucis Burdegalensis, ordinis St. Benedicti --- & generaliter Patriarchales, Archiepiscopales, Episcopales ecclesias, Monasteria, Prioratus, nec non Canonicatus Præbendas ecclesias cum cura vel sine cura, & alia quælibet beneficia ecclesiastica, quæ apud sedem Apostolicam vacare noscuntur ad præsens, & quæ toto nostri Pontificatus tempore vacare contigerit in futurum, provisioni, collationi, ac dispositioni nostræ, & sedis ejusdem, hac vice, authoritate Apostolica reservamus. *Extrav. Commun.* 3. *tit. de præbendis, cap.* 3.

Pope

Pope *John* XXII. his Succeſſor, made a little larger Step, in a Conſtitution he made to reform the Plurality of Benefices, which prohibits the holding more than one Benefice with Cure of Souls, and the holding more than one without it, but with Diſpenſation: And with Exception to the Cardinals, to which this was not to extend: Commanding farther, that thoſe who had more Benefices ſhould reſign them; and that for the future, whoever took a Benefice, who was poſſeſs'd of one already, ſhould reſign the firſt; which reſign'd Benefices were to remain all at the Pope's Diſpoſal. The Pretence for this Bull, which was to take away the Plurality of Benefices, was very ſpecious: And tho' the Reſervation it contain'd had no other End than advancing the Intereſt of the Church of *Rome*, however this was made to paſs only as an acceſſory Advantage, and not the chief Deſign; and which at the firſt View ſeem'd to be without Conſequence, becauſe the End to which it tended, did not then diſcover itſelf.

The many profitable Examples this Pope hath left to his Succeſſors of heaping up Wealth by the Collation of Benefices, make it neceſſary to dwell a little longer upon this Head. Many Biſhopricks he divided (4), and when a rich Benefice was vacant, he gave it commonly to one who poſſeſs'd a

(4) Adeo rebus novis ſtuduit, *ſaith* Platina *in his Life*, ut & ſimplices Epiſcopatus bifariam diviſerit, ac diviſos in unum redegerit, & Abbatias in Epiſcopatus, & Epiſcopatus in Abbatias viciſſim tranſtulerit. Novas quoq; dignitates nova Collegia in Eccleſiis conſtituit, *&c.* He divided that of *Toulouſe* into five, erecting it into an Archbiſhoprick, and making Suffragans the four Cities which he diſmembred from its Dioceſs, *viz. Montauban, Lavaur, Rieux,* and *Lombez*. He likewiſe aſſign'd *Pamiez* to it, which *Boniface* VIII. had placed under *Narbon,*

a leſſer Benefice already, that this might be given to another: And he manag'd ſo well, that he made one Vacancy ſometimes produce ſix Preſentations; removing always from a leſſer Benefice to a greater, and filling the leaſt Benefice with a new Beneficiary; ſo that Money was drawn from every one of them, and every one contented.

Narbon, of which laſt, *Alet* and St. *Pons de Tomiers* were made Suffragans by a new Erection. He dismembred *Caſtres* from the Biſhoprick of *Albi*, St. *Flour* from the Church of *Clermont*, *Vabres* from that of *Rhodes*, and *Tulles* from that of *Limoges*, and placed them under the Archbiſhoprick of *Bourges*.

CHAP. XXXVIII.

THIS Pope invented likewiſe the *Annates* (1), an Impoſition upon Benefices never before heard of, and which for ſome Time, occaſion'd great Scandals.

When the Emperors or Kings conferr'd any Benefice, if thoſe who were Candidates made any Preſent, or agreed to pay out any part of the Revenues as a Conſideration for obtaining it, the Popes inveigh'd ſharply againſt it, alledging that Paſſage in

(1) It is not certain whether *John* XXII. invented the *Annates* or not, *Platina* aſcribes them to *Boniface* IX. Tum vero Bonifacius, *ſaith* Platina *in his Life*, ſive vice comitum potentiam veritus, ſive augendæ ditionis Eccleſiaſticæ cupidus, Annatarum uſum beneficiis Eccleſiaſticis primus impoſuit, hac conditione, ut qui beneficium conſequeretur dimidium annui proventus fiſco Apoſtolico perſolveret. Sunt tamen, qui hoc inventum Joanni XXII. aſcribant. See *Guimier ad tit. de Annatis in pragmat. ſanct. verbo, Annatarum, pag.* 468. *Edit. Franc. Pinſon.*

the

the Gospel, *Gratis accepistis, gratis date*, Matth. 10. calling such a Contract Simonaical, and a setting to Sale Spiritual Things: And some Popes went so far as to call it Heresy. Others again there were, who refining upon it, made great Distinction betwixt the Ministery of Jesus Christ, which consisted in Binding and Loosing, and the temporal Possessions annexed to Benefices; and that there was no Inconveniency in Princes assigning some Part of these Temporalities to the Service of the State (2); of which Matter there was a solemn and publick Discussion.

But this Reasoning did not satisfy learn'd and pious People, for tho' the Revenues of Benefices are certainly Temporalities, yet the Right or Title by Virtue of which they are enjoy'd, is a Spirituality. And so far it was generally then allow'd, as it is at this Day, that the Popes had Reason to condemn this Practice, and call it Simony. And it was the first Occasion taken by them, to deprive Princes of the Collations of Benefices.

But after the Popes had assum'd a great Part of the Power to themselves, of which they had stripped the Emperors, *John* XXII. in the Year 1316. made a Decree, That for three Years, whoever obtain'd a Benefice of more than 24 Ducats of yearly Rent, should pay one Year's Value for Expedition of his Bulls*: Which at the Expiration of the three

(2) Those who had the Power of presenting, says the Author of the Council of *Trent*, *lib.* 6. seeing, that besides a spiritual Power, they convey'd temporalities withal, *viz.* the Revenue of the Benefice, they thought they had a Right to some temporal Consideration, and therefore those who obtain'd a Benefice were oblig'd to comply with the Condition of the Collator.

* See the Chapter *Cum non-nullæ* 11. *tit.* 2. *de præbendis & dignitat. in Extravag. Communi.* And the Decretal of *Clem.* VII. *chap.* 2. *de Annatis in* 7. *Decretal.*

Years

Years came to be renew'd again, as well as continu'd by his Succeſſors, tho' in divers Places it met with Oppoſition: Some Places coming to an Agreement to pay only the half of the *Annat*, others to pay only for ſome particular ſort of Benefices, and that the reſt ſhould be exempted.

This Tax was reckon'd very heavy upon private Families; for the *Annate* being paid out of their own Fortune, the Incumbent run the Hazard of dying before he reimburſed himſelf(3). Princes likewiſe found it a mighty Grievance, by its draining their Countries of ſo much Treaſure, without making any ſort of Return: Beſides, that this Exaction being attended by a Train of other Expences in Bulls, Diſpenſations, and other preparative Preſents, the Money which is the Sinews of Power, was irretrievably ſunk, contrary to the Courſe of other Trafficks.

When firſt the Pope introduced this Novelty, the Generality of People were not capable of diſcerning the Difference betwixt this Payment and that which had been ſo much decried, when Princes conferr'd the Benefices: But all the Learn'd Men of thoſe times univerſally condemn'd it as Simoniacal (*a*), from its firſt Eſtabliſhment. In Proceſs of Time,

(3) It was for this Reaſon that *Bernard del Bene* Biſhop of *Niſmes*, ſaid to the Council of *Trent*, That he could not approve the *Annates*, neither as to the Proportion, ſeeing a 20th Part of the Income he thought ſufficient, nor as to the Time of Payment; it not ſeeming reaſonable that any Payment ſhould be made before the End of the Year, *Fra. Paolo. lib.* 8. *Conc. Trent.*

(*a*) Sæpe quæſitum eſt, *ſaith a great Lawyer*, an jure poſſit exigi, & hæc fere Theologoſum eſt opinio juriſq; Pontificii conſultorum Roman. Pontificem lege Simoniaci ambitus ut cæteros Epiſcopos teneri, ſi pro ſacris miniſteriis pecuniam accipiat. *Not. in cap.* 1. *de Simon.*

Nam

Time, ſome of the Doctors ſet themſelves on Work to defend it: So they grew divided in their Opinions; ſome cenſuring it as unlawful, ſimonaical, and prohibited both by Laws Divine and Human; others defending it as a Thing allowable, and as a Right belonging to the Pope; even to the maintaining, that the Pope might of Right demand not only the *Annate*, but more if he thought fit, as being the abſolute Patron or Maſter of all the Fruits without Exception: And laſtly, others, to give the finiſhing Stroke, went ſo far, as indeed they could go no farther, and declar'd, That whatever Contract the Pope ſhould make in the Collation of Benefices, he could not be guilty of Simony (*b*). Which if it were true, that all the Goods of the Church were his, were an undeniable Conſequence, ſeeing every Man may make what Contracts he pleaſes in the Management of his own Eſtate, without

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Nam præter Canones qui pecuniam omnino exigi vetant, hoc genus vectigalis a ſynodo Baſilienſi damnatum eſt, & pœna ambitus adverſus eos, qui hac via ad ſacra miniſteria Eccleſiæ graſſantur, & adeo adverſus ipſum Pontificem ſtatuta, *Seſſ.* 21 Nec ſatis perſpicio ut ſe excuſare poſſint hoc modo promoti a Pontifice quominus in Canonum pœnam incurrant, & tanquam vitio creati, ut veteres loquobantur, dignitatem honoremq; Eccleſiaſticum amittant, ſi quis ad priſcæ Inſtitutionis Normam potius, quam receptæ conſuetudinis, hæc exigere velit. Nam quoquo ſe vertant Pontifices, quibuſcunq; decretis, conſtitutionibus, pactiſq; hanc exactionem tueantur divinum oraculum ſemper iis opponemus, gratis accepiſtis, gratis datis. *Gloſſ. prag. tit. de Annatis Duar. de benef. lib.* 6. *cap.* 3.

Vide Nic. de Clemang's de Annatis non ſolvendis.

(*b*) St. *Thomas* contradicts this in expreſs Terms: Papa, *ſaith he*, poteſt incurrere vitium Simoniæ, ſicut & quilibet alius homo, quamvis enim res Eccleſiæ ſint ejus ut principalis Diſpenſatoris, non tamen ſunt ejus ut Domini & poſſeſſoris. Et ideo ſi reciperet pro aliqua re ſpirituali pecuniam de reditibus Eccleſiæ alicujus, non careret vitio Simoniæ, 2*da.* 2*dæ. queſtio* 100. *art.* 1.

Injury

Injury to any other. But in this Case there seems to be a considerable Objection, which is, That neither GOD nor Man have seem'd to give their Consent to it.

In Fine, *John* XXII. was so intent upon making the most of every thing, that in the Space of 20 Years he heap'd up an immense Treasure: And tho' he put no more Restraint upon his Expences or his Bounties, than his Predecessors, yet he left 25 Millions at his Death. *John Villars* saith, that in an Inventory of this Pope's Estate which his Brother made by Order of the sacred College, he found 18 Millions of coined Money, and 7 Millions valued in Plate and Ingots (4).

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(4) *Platina* hath Reason to say, at the End of his Life, that no Pope never left so much: And it is observable what *Platina* relates in the Beginning of his Life, that this Pope declar'd all those for Hereticks, who affirm'd that Jesus Christ and his Disciples had no Property in any Goods.

Eos, *saith he*, declaravit pertinaces & hæreticos, qui affirmaverunt Christum, & ejus discipulos nil privati vel proprii habuisse; quod certe, *adds he very pertinently*, non multum cum sacra scriptura convenit quæ multis in locis testatur Christum ejusq; discipulos nil proprii habuisse, ut illud Evangelii: Qui non vendiderit omnia quæ habet, & pauperibus dederit non potest meus esse discipulus. [*the expres Words of the Gospel are*, Omnis ex vobis qui non renunciat omnibus quæ possidet non potest esse meus discipulus, *Lucæ* 14.] It is certain, that *John* XXII. knew better, but as a good Canonist he pretended to be of this Opinion, the better to establish that which made him absolute Master of all the Goods of the Church: Whereas he is really no more than the principal Disposer of them; as St. *Thomas* sheweth in the Article I just now quotted.

To this Reflection I will add another, which is, That the *Gallican* Church hath never been more burden'd, nor more injur'd in its Rights, as to the Collation of Benefices, than by the *French* Popes: Witness the Bulls of *Clement* IV. V. and *John* XXII. reported by the Author; and what *Mezeray* saith of *Clement* VII. Pope of *Avignon*:

The *Annates* at the Time of its Institution, were only paid for the Expedition of Bulls for Benefices, as they were fill'd up. But afterwards it was laid on all such Benefices, to be paid every 15 Years (*c*), as by being annex'd to Monasteries and Hospitals, were never vacant; from whence this Tax had the Name of *Quindennium* *. *Paul* II. laid it (5) only on the Benefices united by the Popes, since the Year 1417. But *Paul* IV. extended it to all Benefices united before that time: And *Sixtus* V. took in not only those which had been united by the Apostolick See, but all such as should be united by Legates, Nuncio's, Bishops and any others.

But to return to the Original of *Annates*, Those who oppos'd this Invention of *John* XXII. with a Zeal to hinder its spreading farther, did not obtain their Ends; but on the contrary, contributed to the Defence of them, and to furnish the Popes with an Occasion of extending the Imposition yet farther: Just as the Opposition, made also in those Days, to the Reservations, produc'd the same Ef-

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Avignon: [All the Exactions and Violences, saith he, in the Life of *Charles* VI. cannot be related without Indignation, which were committed upon the Clergy. The 36 Cardinals of *Avignon* were so many Tyrants, they had every where their Officers with expectative Graces, which swept away all the Benefices; the Offices of the Cloyster [*les offices Claustreux* in the *French*] the Commanderies retain'd the best of these, and sold the other or let them to Farm: *Clement* himself, besides possessing himself of all the Spoils of the Bishops, and of all the Abbots that dy'd, and his taking one Year's Rent of all Benefices on every change of the Titulary, whether it happen'd by Vacancy, Resignation, or Exchange, ravaged the *Gallican* Church by an Infinity of Violences and extraordinary Taxes.

(*c*) Propterea quod beneficia unita hujusmodi amplius vacare non speraretur, & exinde Camera & Officiates sedis Apost. detrimentum non modicum pateretur.

* See Chaptert 4, and 5. *de Annatis in* 7. *Decretal.*

(5) Near the Year 1470.

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fect; the Court of *Rome* never failing to get any Abuſes juſtify'd by ſuitable Doctrines.

And therefore *Benedict* XXII. (6), Succeſſor to *John* XXII. under the Affectation of more Care in providing proper Perſons, and ſuch as were every way fitted for their Charge, reſerv'd to himſelf, but for his own Life only, the Diſpoſal of all the Benefices vacant *in Curia*, as had been formerly practis'd, as likewiſe of all vacant by Deprivation, or Tranſlation to other Benefices; of all ſuch as were reſign'd into the Pope's Hands, of all that belong'd to Cardinals, Legates, Nuncio's, Officers of the Court, Treaſurers of the Church Eſtates, and to ſuch as were carried to *Rome* upon Buſineſs, and happen'd to dye either going or coming, about 40 Miles diſtant from the Court; and laſtly, of all Benefices vacant by the Incumbents having taken another (*d*).

Theſe

(6) *James Tournier*, Monk of the Order of Native of the Dioceſs of *Pamiez* in *Languedoc*, choſen *Decemb.* 20. 1334.

(*d*) Gerimus in noſtris deſideriis, ut debemus, quod per noſtræ diligentiæ ſtudium ad quarum libet Eccleſiarum & Monaſteriorum regimina & alia beneficia Eccleſiaſtica viri aſſumantur idonei, qui præſint, & proſint --- Omnes Patriarchales Archiepiſ. & Epiſcopi Eccleſias, & etiam Monaſteria, prioratus, dignitates perſonatus, nec non Canonicatus & præbendas, cæteraq; beneficia Eccleſiaſtica cum cura vel ſine cura, &c. Nunc apud ſedem Apoſtolicam quocunq; modo vacantia, & in poſterum vacatura, nec non per depoſitionem, vel privationem, ſeu tranſlationem, aut muneris conſecrationis ſuſpenſionem per fel. rec. Joannem Papam XXII. ſeu ejus auctoritate factas, & per nos, ſeu authoritate noſtra faciandas ubilibet: Nec non ſi --- renunciationem admitti per nos, vel authoritate noſtra contingeret apud ſedem prædictam. Ac etiam per obitum Cardinalium & Officialium dictæ ſedis --- & quorumcunq; legætorum, ſive nunciorum, ac in terris Eccleſiæ Romanæ rectorum & theſaurariorum --- nunc vacantia & in antea vacatura, ubicunq; dictos legatos vel nuncios, ſeu rectores aut theſaurarios, antequam

These Reservations so comprehensive, and which so much restrain'd the Authority of the Ordinaries, and brought so many Benefices into the Hands of Foreigners, yet being declar'd to take Place only during the Life of this Pope, were let pass and admitted. But it was not to be imagin'd that any thing once establish'd, by him that has the Power, a Prince so much for his Interest (*e*), tho' for so short a Period, would ever be limited within its first Bounds.

Clement VI. (7) Successor of *Benedict* XII. made the same Reservations. This induc'd *Edward* III. King of *England*, who saw all the Benefices of the Kingdom falling into the Hands of Foreigners, by means of Reservations and expectative Graces, to forbid, on Pain of Death, any provisional Benefices made by the Pope, to be receiv'd within his Kingdom. The Pope wrote with great Concern to the King, desiring him to revoke his Orders. The King, in Answer, beseech'd him to make a Refor-

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antequam ad Rom. curiam redierint, seu venerint, rebus eximi contigerit ad humanis. Nec non quorumlibet pro quibuscunq; negotiis ad Rom. curiam venientium, seu etiam recedentium ab eadem, si in locis a dicta curia ultra duas diætas legales non distantibus, *viz.* [*in places not distant more than two good Days Journies from* Rome] jam forsan obierint, vel eos in antea transire contigerit de hac luce --- Nec non etiam, quæ per effectionem quorumcunq; prioratuum, dignitatum, & aliorum beneficiorum collatorum, & conferendorum in posterum, nunc vacantia, & in antea vacatura, dispositioni & provisioni nostræ, donec miserationis divinæ clementia nos universalis Ecclesiæ regimini præsidere concesserit, reservamus, &c. *This Decree is in* January, 1335.

(*e*) Quæ gravia ac intolleranda sed necessitate armorum excusata etiam in pace manere, *saith* Tacitus, Hist. 2. *that is to say*, The Exactions were excus'd as necessary, during the War, yet they ceas'd not in Peace. When a Right is once establish'd, 'tis no longer in the Power of Subjects to hinder its being perpetuated, and even encreas'd.

(7) *Peter Roger* Archbishop of *Roüen*, Son of the Lord of *Rose* in *Limosin*.

mation in Things which were an apparent Dishonour to the Church, and a Scandal to the People: That the Princes, his Ancestors, had enrich'd the Churches of *England*, which were now fill'd with Strangers and unworthy Persons, contrary to the Will of the Testators: That his Kingdom was sensibly impair'd every Day, by the Impositions of the Court of *Rome*: That the Popes were certainly design'd to feed, and not to fleece the Sheep: That the Kings, who had heretofore dispos'd all the Benefices, had since granted the Election to the Clergy at the Popes Request; and now they would set those Elections aside, tho' introduced by themselves, and usurp the Disposition to themselves: That, finally, there was a Necessity of returning to the old Usage, which was, That the Princes should confer the Benefices themselves (*f*).

This Difference, which lasted during the Life of this Pope, however brought his Successor *Innocent* VI. (8), to revoke all his Reservations (*g*), by a

(*f*) Cui Papæ Rex Angliæ de concilio Cleri, & populi Anglici rescripsit, quod in concessiones hujus, quas ipse Papa faceret, præsertim advenis, qui thesauros Ecclesiæ deferrent, & in provisiones Prælaturarum nullatenus consentiret, quia cum olim Reges Angliæ Ecclesiarum Patroni de consensu sedis Apostolicæ Capitulis concesserint electionem, si Papa pacta hujusmodi non servaret, res in pristinam reverteretur naturam. Albertus Argentinensis *in Chronico. anno* 1342.

(8) *Stephen* of *Albert*, of the County of *Limosin*, Bishop of *Clermont*.

(*g*) Mortuo Clemente Papa infra 14 dies electus est concorditer Stephanus de Prinu, Claremontensis Francus, qui fuerat summus Pœnitentiarius Clementis, & Ostiensis Episcopus, & vocatus est Innocentius VI. qui in die Epiphaniæ Domini postmodum coronatus statim revocat omnes Reservationes factas per Papam Clementem, exceptis majoribus prælaturis, & in omnibus ostendit se rigidum etiam erga Cardinales. In eodem Chronico, *Anno* 1352. *Nauclerus ad anno* 1352. *vol.* 2. *generatione* 46.

Bull,

Bull, which begun with the Word *Paſtoralis*: Of this Bull many famous Canoniſts make mention, tho' at this Day it is not extant, any more than many others, whereby thoſe Abuſes and Uſurpations would have been laid open: As by the ſame Arts, the Gloſſes or Interpretations have been robbed of every thing that made not for the Pretenſions of the Court of *Rome*. But the *Indices Expurgatorii* (9), carry yet a much worſe Face, which were made

(9) The Churchmen, ſaith our Author, in his Treatiſe of the Inquiſition, have caſtrated all the valuable Books, and ſuppreſs'd every thing which might ſerve for Defence of the temporal Authority.

In the Year 1607. a Book was printed at *Rome*, call'd *Index Expurgatorius*, in which all the guilty Places were mark'd and condemn'd, as deſerving to be cut out of certain Authors: Which make it diſcernable at the Inſtant, which are the Paſſages which have been changed or ſuppreſs'd in ſeveral Authors of good Reputation, that had the Misfortune to maintain the Authority given by God to Princes.

So that it is not poſſible at this Day to know the Senſe of one of theſe Authors by reading his Book, there being no other Edition to be found, than that which hathbeen ſo corrected by the Court of *Rome*. But that which appears of all the moſt incredible, if it were not to be ſeen in Print is, the Decree made by *Clem.* VIII. in the Catalogue of forbidden Books, of the Edition of the Year 1595. that all the Books of Catholick Authors, wrote ſince the Year 1515. ſhould be corrected, not only by retrenching what was not conformable to the Doctrine of the Church, but alſo by adding what ſhould be judged proper. [In libris Catholicorum recentiorum qui poſt annum Chriſtianæ ſalutis 1515. conſcripti ſint, ſi id quod corrigendum occurrit paucis demptis, aut additis emendari poſſe videatur, id correctores ac'endum curent, ſin minus, omnino deleatur. [*De correctione librorum*, § 3.] And tho' it is but ſix Years, ſaith he, ſince this Precept hath been publiſh'd, yet it hath conſtantly been put in Practice for theſe 70 Years. If therefore the true Doctrine concerning the Authority of Princes, be no longer to be met with in Books, but another altogether in Favour of the Church-men, we know who hath taken away the one, and ſubſtituted the other in its Room. Finally, we may reſt ſatisfy'd, that we have no

made by the Doctors of the Church, subservient to that Church, of all Books; in order to accomodate them to its own Interests, before they were suffer'd to go abroad.

Some few Years after, the Reservations coming again to be reviv'd, and to gather Strength, the same King *Edward*, in the Year 1373. sent an Ambassador to Pope *Gregory* XI. then at *Avignon*, to press him to annul the Reservations intirely: Which at length,

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Book left on this Subject, genuin, and conformable to the Original.

And in the §. 2. it is said, That all Propositions which are against Immunities, and Ecclesiastical Jurisdiction, or which give Authority to that tyrannical Policy, which the Seculars fally call Reason of State. *Expurgandæ sunt propositiones quæ sunt contra libertatem, immunitatem, & jurisdictionem Ecclesiasticam.* Under Colour of correcting or suppressing these Propositions, they expunge every thing that makes for the Interest of Princes. *Item quæ tyranicam Politiam fovent, & quam falso vocant rationem status deleantur.*

By this way of reasoning, all Princes are Tyrants; for however just and religious they are, there can be no Government without a Reason of State, by which they act, and without which no Princes could maintain themselves in their just Rights. Thus *Fra. Paolo* hath good Reason to say, in *lib.* 6. *Conc. Trent*, [That the Court of *Rome* never found a more valuable Secret to make Mankind degenerate into Brutes, than to deprive them of the Knowledge which is necessary to defend them from its Usurpations.]

What therefore must be the Consequence, if our Magistrates continue to allow the Churchmen to suppress good Books? The Doctor who hath placed the History of the Council of *Trent* in the Catalogue of prohibited Books, in the Year 1685. may, perhaps, have acted out of great Zeal; but some of the most able Men of the Kingdom have been of Opinion, his Learning was not suitable to his Zeal: And some have not scrupled to say, That in doing a great Service to the Court of *Rome*, he has done a great Disservice to the Crown of *France*.

* See *Nauclerus* in *Chronico vol.* 2. *gener.* 36 & 47. *Albert Krantz in hist. Saxon. lib.* 10. *cap.* 4. & *in hist. Vandal, lib.* 9. *cap.* 6. & *Gaguin, lib.* 9. *cap.* 2. *in Carolo* V.

after

after two Years in Agitation, were, in the Year 1375. totally aboliſh'd by this Pope.

But a great Schiſm ariſing in the Church upon his Death, which happen'd in the Year 1378. and produced two Popes, and conſequently two Courts, the neceſſary Expences to ſupport them were alſo doubled, to which muſt be reckon'd the extraordinary Occaſions for proſecuting the War with Rigour againſt each other. Thus all Inventions for raiſing Money, and fleecing the People, were ſet on Work with freſh Vigour (*h*): Simony appear'd no where ſo barefaced, the two Courts holding an open Market for Benefices (*i*); and every Eſſay was made, that was poſſible, to ſtrip the ordinary Collators of the Right of preſenting.

Hitherto the Court of *Rome* had not taken off the Mask, nor had ſo avowedly own'd that Paſſion ſhe had for Money, and that it was the ultimate End of all her Actions. She had hitherto condeſcended to give Reaſons for what ſhe did, that carried a

(*h*) Hæc revera de Romano Pontificatu altercatio multis incommodis, tum alias nationes, tum gentem Gallicam vexavit. Nam Cardinales 30 Clementis cauſam ſecuti exploratores per Franciam conſtituerant, qui Eccleſiarum opulentiores proventus inquirerent quas Rectoribus vacuas mox ſibi a Clemente obtinebant. Tulit quoq; Clemens de vacaturis Eccleſiis legem quam expectativam gratiam appellabant, qua ad adipiſcendas morte poſſeſſorum Eccleſias fas juſq; expectanti per Pontificem deſignato erat, ſolis ex hac lege Cardinalibus & potentioribus viris Eccleſiæ contingebant. Exigebantur præterea a Clero decimæ, & de majoribus Eccleſiis dum Paſtore orbatæ erant, primi anni proventus legebantur. Id annatam vocant, quam Cameræ Apoſtolicæ deberi Romani contendunt. *Gaguin, lib.* 9. *cap.* 3. *in Carolo VI. Vide Nic. de Clemangis de corrupto Eccleſiæ ſtatu. cap.* 27. *Juvenal, de Urſinis,* in the Life of *Charles* VI. *anno.* 1381. *Allen Chartier* and *Nicholas Gilles anno* 1385.

(*i*) Tempore ejus (Bonif. IX.) valde infamis curia habebatur de labe Simoniaca, ut beneficia non tam meritis quam pecuniam offerentibus darentur. *Naucler. in Chronio, vol.* 2. *gener.* 47. *anno* 1389.

good Appearance to the World, either on Pretence of providing better for the Benefices than the Ordinaries usually did, or of prefering some Person of particular Merit (*k*).

But *Urban* VI. left it no longer to conjecture, why he concern'd himself with the Collation of Benefices, when he declar'd, That no Presentation should be good, where the Value (*l*) was not expressed.

Heretofore Benefices were given chiefly for spiritual Purposes, the temporal Part was an accessary and an accidental Circumstance of Convenience only, and not of the first Consideration: But afterwards the spiritual Part was no more spoken of, nor the Office or Duty any longer regarded, but the Profits.

(*k*) Etsi, *saith* Clement V. in temporalium dispositione bonorum habenda sit discretionis cautela, præcipue est ut ea digne & laudabiliter disponatur in Ecclesiasticis tamen rebus multo fortiùs inviligare nostra debet intentio, ut juxta personarum conditiones & status ad divini nominis laudem & ipsarum utilitatem provideatur ex merito Ecclesiasticis personis: Cum juxta canonicas sanctiones nil sit quod Ecclesiæ Dei magis officiat, quam quod indigni assumantur ad regimen animarum. *Extravag. Comm. l.* 3. *tit. de Præbendis, cap.* 3.

(*l*) Item voluit quod in gratiis quas quibusvis personis de beneficiis vacantibus, seu certo modo vocaturis, fieri contigerit, illorum & aliorum quorumcunq; beneficiorum, quæ dictæ personæ tunc obtinuerint, seu de quibus his fuerit provisum vel concessum, vel mandatum providere verus annuus valor per Marcas argenti, aut Sterlingorum, vel libras turonensium parvorum, seu florinos auri, aut ducatos, vel uncias auri, seu aliam monetam secundum communem æstimationem exprimatur, nisi personæ prædictæ beneficia, quæ tunc obtinuerint, aut in quibus, vel ad quæ jus eis competit, juxta ipsarum obligationes, aut alias dimittere teneantur, alioquin gratiæ prædictæ sunt nullæ. *This Decretal of* Urban *is become a Rule in Chancery, and is the* 55*th of the Rules or Orders of the Apostolick Chancery, published by* Innocent XIX. Vide Rebuff. ad Rubric. de Annatis in Concordatis, & Felin ad caput ad aures 8. num. 4. Extra de Rescriptis.

Thus

Thus it ſtands at this Day, inſomuch that when Power is given to the Nuncio's to confer ſmall Benefices, the Importance of the Cure, that is, whether they ſhall be reputed great or little, is determin'd only by the Value of the Income: And in the Reſervations of the Monaſteries, the Spirituals go for nothing; but all the Benefices above the Value of 200 Crowns are reſerv'd, the reſt are left at Liberty.

By theſe Methods the Apoſtolick Chamber came to a juſter Knowledge of the value of the *Annates*(10), for if two Perſons happen to obtain the ſame Benefice, the Bulls in Favour of him who values it higheſt, ſtand good, the others are made void. Some are apt to call this a ſetting the Benefices to publick Outcry, and taking the beſt Chapman: Others ſay, that it is only to prevent the Chamber being defrauded of its Right. But as this is a Conſideration more proper for the *Annates*, we ſhall return to the unhappy Times of the Schiſm we mention'd, which made ſo large a Rent in the Church.

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(10) This is alſo done, to oblige thoſe who have not expreſs'd the Value to take out ſecond Proviſions or Grants, dearer than the firſt, in order to aſſure themſelves of the Benefice.

What would that holy Biſhop of *Tournay* ſay in theſe Days? who asking Money of one of his Friends to buy Lead to cover his Church, writ to him in theſe Terms:

Rogamus & petimus ut aliquid de benivola & benefica liberalitate veſtra nobis mittatis, quò plumbum emamus, non Romanum, ſed Anglicum, quoniam Anglico plumbo teguntur Eccleſiæ, nudantur Romano. *Steph. Tornacenſis, ep.* 147. *ad Valdemarum.*

CHAP. XXXIX.

NO Man denies, but that the Disorders were notorious in the *Roman* Courts on this Occasion. And that which encreased them was, that some Kingdoms and Countries were so scandaliz'd with the Variety of Tricks and Shifts they saw practis'd, that they came at last to acknowledge neither of the Competitors for Pope (1). This put them upon the Necessity of an Expedient, not very endearing to the Subjects, which was, to raise and levy as much upon those who continued still in their Obedience, as they could have expected from all their Subjects together, had there been no Defection.

Germany refus'd to submit to the Reservations and Expectative Graces, and the Ordinaries constantly presented, without any Regard to the *Roman* Bulls.

On the other Side, *Innocent* VII. in the Year 1359. sent a Legate into *Germany*, to grant new Bulls for certain Sums, to such as had come in by Episcopal Collation; and also to compound for the Fruits

(1) If all the Christian Princes had done the same, without making themselves of either Party, the Schism which lasted 50 Years, would not have lasted 50 Weeks: For those Popes would not have persisted in maintaining a Dignity, whereby they reaped neither Honour nor Profit. Every Body knows the good Effect which the Letters of Substraction had (which is a Declaration of withdrawing from Obedience, *&c.*) which the King of *France* publish'd in the Year 1408.

already

already receiv'd (*a*), which were quitted and releaſed to the Incumbents, on condition of reſtoring a certain part to the Apoſtolick Chamber. But as this would have carried great Sums out of *Germany*, the Emperor *Charles* IV. forbad the levying them, ſaying, It was neceſſary to reform the Manners of the Clergy, not their Purſes.

But all theſe Confuſions receiv'd a conſiderable Increaſe, by the Addition of a third Pope (1), in the Year 1409. to whom tho' *France* paid Obedience, yet ſhe ſtood firm in maintaining the King's Edict (2), made three Years before *; by which all Reſervations, *Annates*, and other Exactions of the Court of *Rome* were forbid, until they were ſettled by a lawful General Council.

(*a*) Miſit Innocentius Papa legatum ſuum Epiſcopum Calvacenſem pro ſubſidio, Cameræ, & dedit ei poteſtatem diſpenſandi cum Clericis ad beneficia curata, vel ſine cura ad dignitates aut officia quæ minus canonicè haberent, aut fuiſſent adepti cum fructibus inde preceptis. Erant ibi etiam Saxoniæ & Bavariæ Duces, vocavitq; Imperator legatum, & audivit eundem ſuper comiſſis: Quo facto dixit Imperator, Domine Legate, Papa miſſit vos ad Germaniam in qua magnam pecuniam corraditis, ſed Clero nihil reformatis. *Naucleras in Chronico. vol.* 2. *generat.* 46. *anno* 1359. Adde Paralipomena rerum memorabilium Cratonis Milii *an.* 1375. & *Chronicon. Germani mutii. an.* 1360.

(1) *Alexander* V. choſen by the Cardinals, who were Creatures of the two other Popes, by Virtue of the Subſtraction ordain'd by the Council of *Piſa*, after the Example of that made in *France*.

(2) The Cardinal *de Thury* (ſaith *Monſtrelet*, a contemporary Author) came to *Paris*, and requeſted the Council and the Univerſity there, that they would raiſe two Tenths upon the *French* Church; which was not agreed to, becauſe the Univerſity oppos'd it in the Name of all the Church, and obtain'd a Royal Mandate, to all the King's Officers, commanding that whoever came [*és meſtes de leurs offices*] with ſuch and the like Requeſts, ſhould be expell'd the Kingdom. *Life of* Cha. VI. 1409.

* In the Year 1406.

This

This King being incapable of Government, all Edicts and Acts of State were issued in the Name, or by the Authority of *Lewis* Duke of *Orleans*, his Brother, who had the Government of him. But the Duke being kill'd (3), it was easy for Pope *John* XXIII. to recover the Collation of Benefices in *France*, by allowing, that the King, the Queen, the Dauphin (4), and all the House of *Burgundy* should have the Nomination of all those conferr'd on their own Servants, on Condition the Pope should have all the rest. Yet the Court of *Rome* enjoy'd this Agreement but to the Death of this King; for *Charles* VII. his Son, renew'd the Edicts (*b*).

In several States and Governments of *Italy*, divers Regulations were also made, tending all to remedy these Abuses. *Baldus* tells us, that even the City of *Bologna*, among divers Provisions of this Kind, made an Order, That no more Benefices should be conferr'd on any but Natives of that City, and of the Territory belonging to it. Nor were the Popes in those Days much considered; a plain Instance of which appear'd at *Florence*, where *John* XXIII. residing at that Time with his Court, was depriv'd

(3) By Order of *John* Duke of *Burgundy*, his Cousin, *an.* 1407.

(4) The Archbishop of *Pisa* came to *Paris*, sent by Pope *John*, to treat about the Expectative Graces, and Promotions to Prelacies, the Royal Ordinances being then in Force, which plac'd the Disposition of them in the Ordinaries ---- The said Ordinances were annull'd; for the King, the Queen, the Dauphin, had the Nomination for their own Servants, as also the University. *Juvenal Ursinorum, in the Year*, 1414.

(*b*) Exactiones pecuniarum, quas ab aliquibus retroactis temporibus Curia Romana, seu Camera Apostolica, sub prætextu vacantium beneficiorum, aut alias quovis modo & colore præmissorum applicar. voluit, penitus cessabunt. *This Ordinance bears Date* April 13th, 1418. *and is reported in the Conference of Ordinances*, lib. 1. tit. 3. part 2. §. 3.

for

for five Years of the Collation of Benefices in that State, upon a Diſorder occaſion'd by that Pope's preſenting to a Benefice (*c*).

It was to that Age the Court of *Rome* was beholding for Inventions, ſo refin'd and ſo ſerviceable to her, of Clauſes inſerted in Bulls which were perplexing and inextricable, diſtinguiſhing betwixt the Petitions or Requeſts ſign'd *Conceſſum*, and the others ſign'd *Fiat* (5): And betwixt thoſe Bulls diſpatch'd with the Clauſe *Motu proprio*, and thoſe with the Clauſe *Anteferri* (6); which laſt gives the Preference, and makes the Condition more advantagious.

From

(*c*) Florentini propter unicum abuſum a Papa commiſſum in conferendo unam Abbatiam ſitam in eorum ditione privaverunt Joannem XXIII. Papam in eorum civitata tunc degentem, poteſtate conferendi beneficia in eorum ditione ſita uſq; ad quinquennium. *Molin. in notis ad Senatui-conſultum contra abuſus Pap.*

(5) The Difference betwixt the Petitions ſign'd *Conceſſum*, and thoſe wherein the Pope ſays, *fiat ut petitur*, is, That theſe latter always grant ſome Grace, and are ſign'd with the firſt Letter of the Pope's Chriſtian Name, and with his own Hand, betwixt the Petition and the Clauſes; whereas the others are ſign'd only by the Officer of the *Conceſſum*, in this Form, *Conceſſum ut petitur in præſentia Domini noſtri Papæ*, with the firſt Letter of his Name, and his Surname betwixt the Petition and the Clauſes: And the *Conceſſum* on the Sides of the Clauſes, with the two capital Letters of his Names. See the 34th Rule of Chancery.

(6) All theſe Rubricks began under the Pontificates of *Boniface* IX. Pope at *Rome*, and of *Benedict* XI. Pope at *Avignon*.

Charles du Molin, in his Notes upon the Edict, ſet forth *anno* 1406. againſt the Exactions of the Court of *Rome*, ſaith, Benedictus XIII. multas valde anomalas & exorbitantes beneficiales & alias gratias, pecuniæ emungendæ gratia, faciebat, ſequendo in hoc Bonifaciam IX. impium Corrivalem ſuum, qui adeo Simonem Magum imitatus eſt, ut morientibus Cardinalibus, qui Simoniam oderant ſummopere lætaretur, velut liberas habenas habere incipiens ad Simoniam publicè exercendam. Plus offerenti indiſcriminatim

From hence it follow'd, that many Bulls were obtain'd for the same Benefice, which, besides the *Annates* being multiply'd by this means, produced Law-Suits, and these were to be carry'd on at *Rome*, to the great Advantage of that Court. To which was added another Improvement, which refin'd again extreamly upon these Inventions, this was, That if one of the Parties happen'd to die, another Litigant was substituted, that the Cause might not die with him; but that from his Death another *Annate* might arise, by which the Law-Suits were perpetuated, and in some sort made immortal. These gave Rise again to the Clauses *Si alteri*, *Si neutri*, *Si nulli*: By which, while the Benefice was given to a third Person, the Suit however went on, and was happily preserv'd betwixt the two first.

To remedy therefore these Disorders and Corruptions, and to put a Stop to these wretched Litigations among their Subjects, Princes were oblig'd to fix the Right of Possession to Benefices, by restoring the Cognizance of the Beneficiary Rights to the Secular Power; a Right, which however clear in itself, the Ecclesiasticks had usurp'd (7) by the Connivance of the Princes themselves.

But

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minatim vendebat prioritates datarum. Et hæc Mercimonia palam in Curia multis annis exercuit. Et adhuc priores Mercatores eludebat inventa Clausula, Anteferri pro 25 florenis; & hos rursus per prerogativum Antelationis pro 50 ducatis, fixis etiam multis regulis Cancellariæ quas pretio refigeret, ut latè scribit Theodoricus à Niem, qui illis præsens adfuit. *lib.* 2. *cap.* 6. *& seq.*

(7) The Parliament of *Paris*, which was in part compos'd of Counsellors that were Clergymen [*Counceillers Cleres*] contributed much to the Diminution of the Authority of the Ecclesiastical Judges.

Item Jurisdictio temporalis per spiritualem non debet impedire, & si contra fiat, Curia præsens consuevit compellere spiritualem ad removendum impedimenta talia per captionem suæ

But the Regulations made by them againſt all theſe Innovations in their Dominions, ſerv'd but to ſharpen the Induſtry of the Court of *Rome*, to find out other Expedients, which might have the ſame Effect, under other Pretexts; as well as to ſupply, by a Multiplication of new Rights, their Defect of Power in Matters, wherein the Interpoſition of Princes had reſtrain'd them.

ſuæ temporalitatis. Ita dictum ſuit per Arreſtam Curiæ in Parliamento anni 1327. contra Epiſcopum Rhemenſem pro Capitulo dictæ Eccleſiæ. *Cap.* 29. *partis* 1. *Stili Curiæ Parliam.* §. 10.

CHAP. XL.

IT was in theſe Days that Reſignations alſo appear'd in the World, not ſuch as were juſtifiable, and made upon good Grounds, for ſuch indeed were of very great Antiquity, but others of a very different Nature, and which the World, at this Day, by no means approves. It never was allow'd to Church-men to quit the Cure that had been aſſign'd them, whenever they pleaſed: For it was highly reaſonable, that whoever had undertaken a Charge, and had receiv'd his Recompenſe for it, which is the Benefice, ſhould continue to perform it (1).

Nevertheleſs, ſeeing a Caſe might happen, in which it might be neceſſary, or at leaſt reaſonable

(1) Can. ſi qui vero. Can. ſi quis Presbiter. & Can. Epiſcopum 7. q. 1. Can. Clericus 21. q. 1. Can. Sanctorum 70. diſt. Et Yvolar. not. ep. 121.

and

and expedient for a Publick or a private Consideration, that a Man should quit his Benefice: From thence came the Practice, that a Man might, with the Permission of his Superiors (2), for some lawful Cause, renounce. The Causes that were then allow'd to be so, were Infirmities either of Mind or Body, old Age (3), or the Danger in residing in a Place, where a Man happen'd to have powerful Enemies.

Assoon as the Renunciation was receiv'd by the Bishop, the Benefice was esteem'd vacant (*a*), and the Collator, confer'd it in the same Forms as if it had been vacant by Death.

At last these Renunciations came to be practis'd for no such urgent Causes, but it grew to be a sufficient Cause, if the Renouncer had a Mind to resign it to one of his own Nomination (*b*). And as a

(2) Vide cap. 4. extra de renunciatione.

(3) Vide cap. 10. extra de renunciatione.

(*a*) De Presbytero, qui Ecclesiam quam regebat nulla cogente necessitate in manu tua resutavit, & per manum Laicorum cubile sponsæ, qua se indignum, vel quam se indignam, resutando judicavit, conatur ascendere, hoc fraternitati suæ respondeo, quia justum est, ut in judicio, quod de se judicavit, permaneat, & sponsam, quam repudiavit, vivente fratre, qui ei legitimè incardinatus est, adulterare non præsumat, *Ivo. Car. not. ep.* 131. *vide cap.* 3. *extra. de renunciat.*

(*b*) *Balsamon* on the 76 Canon [*des Apostres*] saith, that an ancient Bishop having a mind to resign his Bishoprick to one of his Friends, the Assembly of Bishops would not admit his Resignation. The Passage is here translated into *Latin* which *Janus à Costa* is very remarkable.

Tu autem die, quod etiamsi non ad suum cognatum Episcopus Episcopatum transmiserit, sed ad alienum, idem erit, Episcopos enim a Synodis fieri decretum est. Et ideo etiam vita functus ille urbis Philippi Metropolitanus maximus suæ Metropoli sub hac conditione renuncians, si ejus Oeconomum urbis Philippi Metropolitanum pro se ipso sancta Synodus constitueret, non est exauditus, sed exaudiit, quod si res quas post electionem ex Ecclesiæ reditibus acquiret, non potest dare, vel

ad

a new Thing requir'd a new Name, it was call'd *Resignatio ad favorem*; because it was in his Favour only, to whom the Resignation was made, and in order to bring him into the Benefice, The Superior indeed is at Liberty to admit the Renunciation or not, but he cannot admit it, without giving the Benefice to the Person nam'd by the Renouncer.

This sort of Resignation, tho' it were a plain way to introduce hereditary Succession into Benefices, and therefore prejudicial to the Ecclesiastical Order, yet it turned to the Advantage of the Court of *Rome*, as it made Collations of Benefices more frequent, which produced more *Annates*. Avarice and other worldly Affections having wrought upon the Frailties of many Persons, to sollicit and take Benefices, not with Intention to keep them always, but only until a better fell, or upon the Credit of such Preferment, to treat with more Advantage upon some Marriage, or other important Change of Condition; or to keep it for some Child, who was not come to Age: A Practice, which among pious Men hath ever been held inexcusable. It is a receiv'd Opinion, that whoever takes a Benefice with Design to renounce it, cannot in Conscience receive the Fruits: Which some again of larger Consciences affirm not generally of all, but only of such as receive the Profits, tho' they design to quit the Ecclesiastical Orders. And seeing Resignations *ad favorem* redounded to his Profit, through whose Hands they were to pass, the Court of *Rome*, to engross them all, forbad the Bishops to receive any such Resignations, reserving this Right wholly to

ad quos vult transmittere, multo magis Episcopatum. *Vide Can.* 32. *Concil. Carthag.* & 23 *Antioch.* & *can.* 17. *caus.* 7. *q.* 1.

the

the Pope (4). But becauſe many Incumbents, when they drew near their Ends, took this Courſe of appointing themſelves a Succeſſor, a Rule was made in the *Roman* Chancery, That no Reſignation *ad favorem*, made by a ſick Incumbent, ſhould be valid, unleſs he liv'd 20 Days after the Reſignation had been accepted (*c*).

(4) According to the Canoniſts, there being none but he, who can exempt from Simony. See the Gloſſ. *ad cap.* 4. *extra de pactis verbo illicitæ ad cap.* 12. *de officio deleg. verbo, dimittere.*

(*c*) Item voluit quod ſi quis infirmitate conſtitutus reſignaverit aliquod beneficium ſive ſimpliciter, ſive ex cauſa permutationis, & poſtea infra viginti dies a die per ipſum reſignantem præſtandi conſenſus computandos, de ipſa infirmitate, ac ipſum beneficium conferatur per reſignationem factam, collatio hujuſmodi nulla ſit, ipſumq; beneficium per obitum vocare cenſeatur. *This Rule is the* 19*th of the* Roman *Chancery.* Vide du Molin ad hanc reg. num. 63.

CHAP. XLI.

WHILST the holy War laſted, or there were any Hopes of its reviving, the Pretence of ſo pious a Deſign was a large and conſtant Channel of Wealth to the Churchmen: But the Offerings of devout People ceaſed with theſe Hopes: And this Spring of Devotion being dried up, Indulgences, and Remiſſions of Sins were thought of in their Room; to be beſtow'd on thoſe, who ſhould contribute with their Purſes to ſome Work of Piety: And every Day new Works of this kind were ſet on Foot through every City; in Return to which, *Rome* granted her Indulgences, from whence great Profit redounded to the Clergy, and to this Court, who reap'd its Share. And this Matter was carried

carried ſo high, that every one knows the Changes (1) which were wrought by theſe Indulgences, in *Germany*, from the Year 1517.

In our Times Pope *Pius* V. made a Conſtitution, by which he annul'd all the Indulgences, granted with the Clauſe of *Manus adjutrices* (2): That is to ſay, with a Condition of paying Money. Yet this hath not been able to put a Stop to ſo gainful a Traffick as theſe Indulgencies afforded. For tho' they are now granted without any ſuch Condition, yet there are placed in the Entries of the Churches little Boxes, to provoke the People's Charity; the Sight of which is a tacite demanding, where they are perſuaded they cannot be ſaved without giving.

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(1) The Schiſm of *Martin Luther*.

(2) Omnes & ſingulas indulgentias, etiam perpetuas ---- per quoſcunq; Romanos Pontifices prædeceſſores noſtros, ac etiam nos, ſub quibuſcunq; tenoribus, & formis, ac cum quibuſvis clauſulis & decretis, ac ex quibuſvis etiam urgentiſſimis cauſis, etiam cauſa redemptionis captivorum, & alias quomodolibet conceſſas; pro quibus conſequendis manus ſunt porrigendæ adjutrices, & quæ quæſtuandi facultatem quomodolibet continent - - authoritate Apoſtolica, tenore præſentium, perpetuò revocamus, caſſamus, irritamus, & annullamus, ac viribus vacuamus. 7 *Decretal. tit.* 15. *cap.* 1.

CHAP. XLII.

THE Times of Schiſm we mention'd, ſeem'd to put a Period alſo to any Hopes in the Churches of acquiring any more real Eſtates, or encreaſing their Revenues. The Monks had now no longer the Reputation of Holineſs and Strictneſs of Life, they had formerly maintain'd: And the fervent Zeal, which had appear'd ſo univerſal on Occaſions of the Croiſado's, was not only cool'd, but wholly extinguiſh'd. The Fryers-Mendicants only, who were all inſtituted ſince the Year 1200. had therefore ſome Credit left in the World, becauſe they had parted with their Capacity of acquiring real Eſtates, and were under a Vow of living upon Oblations and Alms only: So that the Belief was not ill grounded, that their Acquiſitions of real and fix'd Eſtates would have ended here.

But the Prerogative of the Apoſtolick See was a ſeaſonable Expedient at Hand, to aid them in this Exigence; by Virtue of which, a Power was granted to this Order, of acquiring real Eſtates; tho' both by their Vow and Inſtitution it was forbid: And as they had many Friends, who were greatly devoted to their Order, and had great Inclinations to enrich them, if it had been practicable, no ſooner ſaw this Way open to their Bounty, but the Convents of theſe Mendicants in *Italy*, *Spain*, and other Countries, became, in a ſhort time, very ſufficiently endow'd with real Eſtates.

France alone oppos'd this Innovation, ſaying, That ſeeing they came into that Kingdom under the Profeſſion of Poverty, they ought to perſevere in it: Neither have they hitherto ever been ſuffer'd to

to acquire Eſtates there (1): Whereas in other Places they had made very conſiderable Improvements, particularly in thoſe times of Schiſm, when all the reſt of the Clerical Order were very low in Eſteem.

In the Council of *Conſtance* the Schiſm was extinguiſh'd, by one of the Popes having renounc'd (2), and the two others having been depos'd (3): And in the Year 1417. *Martin* V. (4) was elected Pope by the general Council.

Great Hopes were entertain'd, that the Council and the Pope together, the two moſt powerful Concurrents upon Earth, would have gladly united in the Remedy of ſo many Abuſes as had crept into the Diſpenſation of Benefices. And in Effect the Council propos'd to the Pope the Reformation of a Train of Diſtempers, which would have employ'd the skilfulleſt Hands, namely, Reſervations, *Annates*, Expectative Graces, *Commendams*, and Collations. But the new Pope and his Court, whoſe Deſire of

(1) The Parliament of *Paris*, ſaith he, towards the End of his Council of *Trent*, did not approve the Decree which allowed Mendicants to poſſeſs real Eſtates, alledging that this Order having been receiv'd in *France*, under a very different Inſtitution, it was not juſt to allow them on other Terms; and that it was an Artifice in the Court of *Rome*, to draw to themſelves the Eſtates of the Laity: Firſt, in ſuffering the Monks to gain Credit in the World, by the ſpecious Vow of Poverty, which made them be regarded as People void of Intereſt, and who do every thing for Charity, and after they have got a Stock of Reputation, the Court diſpenſeth with their Vow, and puts it in their Power to enrich themſelves. See the Conference of Ordinances, *Liv.* 1. *tit.* 3. *partic.* 2. § 5.

(2) *John* XXIII. after he had fled from the Council, and been brought back again, and depos'd.

(3) *Gregory* XII. and *Benedict* XIII.

(4) *Otho Columna* created on St. *Martin*'s Eve, whence he took the Name.

being at *Rome* (5) was ſtronger than that of any Reformation; meeting with the ſame Impatience in all the Fathers of the Council, who were wearied with the long Abſence from their own Houſes, made Way for the Reſolution which was eaſily agreed to, of adjourning the Diſcuſſion of ſo knotty an Affair, and of ſo much Length to a future Council; which was intimated to be intended to be held at *Pavia*, five Years after, and ſo that Council broke up.

The *French* not being willing to ſtay ſo long as the next Council, a Decree was made in the Parliament of *Paris*, that no Obedience ſhould be paid to this Pope, unleſs he firſt admitted and acknowledg'd the King's Edict (6), which ſuppreſs'd the Reſervations, and the Exactions of Money in *France*. And when *Martin* ſent a Nuncio into *France*, to give the King notice of his Election, the King made anſwer, he would acknowledge the Pope on Condition, that the elective Benefices ſhould be conferr'd by Election, and the Reſervations and Expectatives be aboliſh'd.

The Pope agreed to it for that time, but having gain'd ſome Members of the Univerſity to his Party, in the Year 1422. he attempted to make the Reſervations be again receiv'd. However he fail'd in the Attempt, and they proceeded to Impriſonment of all his Adherents (7): And upon his put-

(5) Both the Pope and his Court were equally apprehenſive, that the Council ſhould meddle too much in Affairs, and penetrate too far into the Secrets of the Papal Miniſtry. The Council was cloſed *April* 22. *anno* 1418. after having continued three Years and a half.

(6) Of *April* 13, 1418. See the Conference of Ordinances, *Lib.* 1. *tit.* 3. *part* 2. § 3 & 4.

(7) The Rector of the Univerſity, and divers others of the Members or Fellows.

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ting the City of *Lyons* under Interdiction (8), the Parliament forbad Obedience to it.

Thus the Diſpute laſted till the Year 1424. when Matters were compromis'd betwixt them, and they came to an Agreement, That his Holineſs ſhould admit all the Collations made before the Agreement, for good; and all his Mandates for the future ſhould be receiv'd. But the Attorney and Advocat-Generals, with many of the great Men, oppos'd the Execution of it, and repreſented the Prejudice it would be to the Kingdom, ſo effectually, that the Agreement vaniſh'd.

(8) Becauſe that City obey'd the King's Edict.

CHAP. XLIII.

WHILE theſe things were acting, the Council of *Pavia* open'd (1), which was ſoon after remov'd to *Sienna* (2), and ſoon after that finiſh'd there (3) with great Expedition; no Affair of Moment having been tranſacted there, only great Expectations given, that the Council which was to be held at *Baſil* ſeven Years after that, ſhould make a thorough Reformation.

(1) Towards the End of the Year of 1423.

(2) Becauſe none were preſent at the firſt opening this Council, but the Pope's Nuncio's, and two Abbots, in all ſix Perſons.

(3) For he was under great Apprehenſions of being depos'd by a Council, as *John* XXIII. his Predeceſſor had been.

About the End of those seven Years Pope *Martin* died, to whom succeeded *Eugene* IV. (4). During whose Reign, in the Year 1431. the Council of *Basil* at last took in hand the Reformations, so necessary and so long wanted, of Abuses in the Collation of Benefices. All Reservations were prohibited, except of those Benefices, which were vacant *in Curia:* And the Expectatives, the *Annates*, with all the Equipage of that Kind, and other Exactions peculiar to that Court abolish'd.

The Pope finding such a Check given to his Power, and such important Branches of his Revenue cut off, set himself to cross the Measures of the Council; and first tried to get it remov'd to some other Place, where he might have the Prelates more at Command. But they were too powerful to let this Design take place, and after many sharp Contests betwixt the Pope and the Council, which pious Men, by interposing Day after Day, had hitherto found some means of compromising. At last, there was no avoiding an irreconcilable Breach, the Council stood firm to the Resolution of putting a final Stop to these Exactions, and the Pope to maintain his Authority and Revenues. The Pope dissolved the Council; the Council depriv'd the Pope (7),

(4) *Gabriel Condolmero*, Nephew and Creature of *Greg.* XII depos'd 1515.

(5) Open'd *July* 23, 1431.

(6) He would have had it at *Bologna*, a City in the Ecclesiastick State. In 1438. he remov'd it to *Ferrara*, and in 1439. to *Florence*.

(7) *Mezeray* saith, there never had been a perfect good Understanding betwixt the Pope and the Fathers of this holy Assembly, for if on their Side they made appear their Design, to put a Bridle on his Authority, by maintaining strenuously the ancient Rule, that the Council is above the Pope: He shew'd himself no less concern'd to have them separated. *In the Life of* Charles VII.

and

and chose another (8). This bred another Schism in the Church. *France* and *Germany* receiv'd the Decrees of this Council: And in the Year 1438. the famous Pragmatick (9) was publish'd in *France*, which restor'd the Elections to the Chapters, the Collations to the Ordinaries, and abolish'd the Reservations: In which it pursu'd the Steps of the Council of *Basil*.

(8) *Amadeus* VIII. Duke of *Savoy*, who had resign'd his Dominions to his Son, to turn Hermit, yet quitted his Hermitage again to be Pope. He was elected in the Year 1439. and owned by *France*, *Germany* and the greatest Part of the West, till the Death of *Eugene*.

After which the Princes taking part with *Nicholas* V. he was induced, part by Entreaties, part by Menaces, to consent to the Re-union of the Church, and to renounce the Pontificate, which he accordingly did in the Year 1449. in the same Council, which he had remov'd from *Basil* to *Lausan* in *Switzerland*. After which, the Fathers confirm'd the Election of *Nicholas*, made two Years before, at *Rome*, by the Cardinals of *Eugene*'s Party. *Amadeus* had taken the Name of *Felix* V.

(9) *Alezeray* calls it the Bulwark of the *Gallican* Church.

CHAP. XLIV.

IN *Italy*, where this Council never was receiv'd, and the Adherence to the Pope was very general, the Reservations had taken deeper Root. Every Pope renewing them with Ease, and introducing new Pretensions and Impositions, and shewing no Instance of Mitigation in the Rigour of any of them, except where some Expedient had been found to work the same Effect an easier way.

But this Invention seem'd to be brought to its highest Perfection under the Popes *Julian* II. and

Leo X. who first introduced Mental Reservations, call'd also Reservations *in Pectore* (1); and who, under the Privilege of keeping their secret Thoughts to themselves, us'd not to declare them in the ordinary Course of other Reservations, nor were they ever known till the Ordinary came to confer a Benefice, or some Candidate to ask it; when it was answer'd by the Datary, that the Pope had reserv'd it mentally (2): So gross a Delusion lasted some Years, however it fell after into Disuse (3), having prov'd useless and inconvenient even to those who first contriv'd it (4).

Other Methods were also strain'd, and carry'd to the utmost Pitch they would bear. For to the Resignations *in Favorem*, which were already so well establish'd, another Abuse was added, which was to resign only the Title of the Benefice, and to reserve all the Profits to the Resigner. By which means the Benefice really remain'd in the same Hands as before, the Resignation having no other Effect, but to appoint a Successor, who in Truth was only the Titular, but had nothing to receive out of the Benefice, until the Death of the Resigner. And that the Titular might not come into Possession of any thing by the Pretence of gathering the Profits himself, and paying them again

(1) That is to say, known only to himself.

(2) *John Swarez*, Bishop of *Coimbria* in *Portugal*, arguing in the Council of *Trent* upon the Mental Reservations, call'd them Robberies, and said it was better to leave the Collation of all Benefices to the Pope, than to suffer him to set his own Price upon his own Thought not communicated, not publish'd, which might therefore be reasonably imagin'd, not to have been born till the Vacancy happen'd. *Fra. Paolo Hist. of Counc. of* Trent, *lib.* 8.

(3) The Reservations were forbid by the Council of *Trent*, *Chap.* 19. of the Reformation of the Session 24.

(4) Who had to bear with all the Repulses and Oppositions from the ordinary Collators.

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to the Resinger, it was provided, that not only all the Profits should be reserv'd to the Resigner, but a Power to him likewise to levy them by his own Authority.

Thus the Resigner differ'd in nothing still from being as much the Incumbent and Owner of the Benefice as before, except in case the Titular died before him; and then tho' he remain'd in Possession of all the Profits, yet he had no Right to appoint himself a Successor: So that the Collator might confer the Title on whom he thought fit should succeed to the Benefice, after the Death of the Resigner. But the Court of *Rome* fail'd not also to find an excellent Expedient for this, which was, the Regress (5).

(5) That is to say, The Return.

CHAP. XLV.

IN the primitive Times of the Church, there was a pious and laudable Custom, that whoever had one Cure assign'd him, never quitted his Charge for a richer (*a*) or more honourable: Every Man presuming, that to perform his Duty as he ought, would take up all his Faculties.

(*a*) Siquis Episcopus, *saith St.* Leon, civitatis suæ mediocritate despecta, administrationem loci celebrioris ambierit, & ad majorem se plebem transtulerit, a Cathreda quidem pelletur aliena sed carebit & propria, ut nec illis præsideat, quos per avaritiam concupivit, nec istis quos per superbiam sprevit. Suis igitur terminis contentus sit quisq; nec supra mensuram juris sui affectet augeri. *Ep.* 12. *ad Anast. Thessalon. Ep. cap.* 8. *vide Can.* 31, 32, & 43. *Caus.* 7. *q.* 1.

But

But sometimes the Superior, when some great Charge was vacant, for want of a Person equal to it, would find a Necessity of translating some Man of Merit, who was employ'd in a less *: And this was a Translation (1) became afterwards so sought after, either for the Convenience or the Profit, that as unusual as it had been, it became very frequent. Then the Ambition and Sollicitude of rising higher grew so prevalent, that oftentimes a Man would quit a Benefice he had in Possession, to sollicite for another, and consequently lost them both, when the Grant of the last prov'd faulty.

To remedy which inconvenience, a Custom prevail'd, which grew to have the Force of a Law, that if the second Grant should not stand good, the Man that was so unfortunate, might without Ceremony, return to his first (*b*): And this was call'd the Regress.

In Imitation of this Example, the Resigner had a Power granted, in Case the appointed Successor died, or renounc'd again his Title, of returning to his resign'd Benefice, and by his own Authority take Possession a-new, without any Ceremony, as if he had never resign'd it. And in case he had re-

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* See the Canon, *Mutationes* 34, and the Canon, *Seres* 35. *Caus.* 7. *q.* 1.

(1) It began to be frequent under Pope *Urban* III. *See cap.* 3 & 7. *extra de rerum permutationi.*

(*b*) Intelleximus G. Canonico referente quod cum ipse & L. Clericus de permutatione Præbendarum suarum inter se tractare cæpissent tandem idem L. Præbenda ejusdem G. cuidam consanguineo assignata præbendam suam ei sicut promiserat noluit resignare. Cum igitur deceptis, & non decipentibus jura succurrunt, licet ipsi de jure non possent Ecclesiastica beneficia permutare, ut tamen simplicitati venia tribuatur, mandamus quatenus si constiterit prætaxatum G. taliter fuisse deceptum, amoto a præbenda, sua consanguineo ipsius L. vel quolibet alio illi cito detentore, eam restitui faciatis eidem. *Cap.* 8. *extra de rerum permut.*

sign'd

ſign'd before he had been in Poſſeſſion (in which Caſe the Regreſs could take no place) he was impower'd to take Poſſeſſion by Acceſs and Ingreſs (2); and this by his own Authority likewiſe, and without any Recourſe to the Magiſtrate: This was call'd the Regreſs. Yet the Pope hath always reſerv'd to himſelf the ſole Power, without ever allowing any Share of it to any other, of receiving and admitting Reſignations made on theſe Conditions, and of giving the Title to the Reſignee, with Obligation to perform them.

As this Invention was generally condemn'd by all the Writers, particularly by the Univerſities of *France*, and actually prohibited by the Parliament of *Paris*, that there could not be found any ſpecious Pretexts in all Antiquity to juſtify it; ſo there were thoſe, who were both aſham'd, and made a Scruple of Conſcience to make uſe of it: For whoſe Satisfaction another Expedient was found, which took its Riſe from great Antiquity, but according to Cuſtom adapted to the preſent Occaſions. This was the Coadjutorſhip.

(2) That is to ſay, As entring the firſt time into the Benefice.

CHAP.

CHAP. XLVI.

THERE was a very ancient and excellent Practice in the Churches, That when a Prelate, or other Minister of the Church, was become incapable through Age, Infirmity of Mind or Body, or other Impediment, to execute his Charge, himself chose an Assistant; or the Superior appointed him one, to share the Burden of the Employment. But the Coajutor had nothing to do with the Office or Benefice, any longer than during the Life of the Incumbent (*a*); at whose Death a new titular Incumbent was made. This was a Method always approv'd, and to which there never was any Opposition.

Afterwards it coming to be consider'd, that if the Coajutor were made to succeed, it would have the Consequence of making him more diligent in

(*a*) By the *Canon* 18. *cauſ.* 7. *q.* 1. of Pope *Pelagius*, towards the Year 559. it appears, that these Coajutors were only Hirelings.

Frater & Coepiscopus Joannes ob hoc quod se in gerenda patrimonii gubernandi cura, vel in disciplina Ecclesiastica conservanda minimè fatetur idoneum, constituti presbyteri ad hæc explenda sibi exposcit adhiberi personam, ut ea quæ sunt necessaria competenti disponente sollicitudine fiant ---- ideoq; præsenti vobis jussione præcipimus, ut servata primo in loco Episcopo memorato reverentia, quam vos convenit inculpabiliter cohibere, præbeatis obedientiam constituto competentem, in nullo dispositionibus ejus spiritu contumaci resultantes; imo competenti vigilantiæ vestræ studio, quæ pro Ecclesiastica utilitate, gerenda constitutus monuerit adimplentes; ut his ita dispositis, & consueta vobis stipendia ministrentur; & quæcunq; in præ fatæ Ecclesiæ patrimonio, vel de rebus ad eam pertinentibus repetendis sunt necessaria compleantur.

Nevertheless the Popes sometimes permitted the Bishops to appoint their Coajutors for their Successors: And in the Eighth Century this Favour was very rarely granted. *See the Canon* 17. *D. Cauſ.* 7. *q.* 1. the

the Exercise of a Charge, which was to be his own; and which would also recommend him to the Inhabitants of the Place, when they regarded him not as a Stranger, they settled the Succession on the Coajutor.

This met with a different Reception in the World, and accordingly was defended or censur'd. On one hand it was said, That all settled Successions in Benefices was pernicious, as a Temptation either to procure, or however to desire the Death of another.

On the other hand was alledg'd, the famous Precedent of St. *Augustine*, who was chosen by *Valerius* to be his Coajutor, and also declar'd his Successor. But this Instance carries no great Weight, since St. *Augustine* himself condemns it afterwards, and would neither imitate it, nor was asham'd to impute it as a Sin of Ignorance (*b*), both in himself and his Predecessor.

But in these Times Coadjutors with Succession in Reversion, were appointed not only to Prelates and other Ministers, who had Business belonging to their Office, but also to simple Benefices, or Sine-cures, where there was nothing to do. So that the Coadjutor had only a Name, without any thing essential, but that of Succession in Reversion; a Thing which the Canonists have so much in Abhorrence.

(*b*) St. *Paulinus* particularly observes, that this sort of Coadjutorship was very extraordinary.

Non autem, *saith he*, tautum hoc scribimus gratulandum quod Episcopatum Augustinus acceperit, sed quod hanc Dei curam meruerint Africanæ Ecclesiæ, ut verba cælestia Augustini ore perciperent, qui ad majorem Dominici muneris gratiam novo more provectus, ita consecratus est, ut non succederet in Cathedra Episcopi, sed accederet. Nam iucolumi valerio Hipponemsis Ecclesiæ Coepiscopus Augustinus est. *Ep.* 17. *Num.* 2. & *Can.* 12C. 7. *q.* 1.

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In these Times likewise, every Beneficiary who desir'd to appoint his Successor, had the Liberty of choosing one of these Methods; either by the Coadjutorship with Succession in Reversion, or by the Resignation *in Favorem*; reserving to himself the Profits, with the Power of Regress: But the authorizing these Sorts of Dispensations, was reserved to the Pope alone, and to no other Person whatsoever.

In *Germany*, where the Council of *Basil* was by some admitted, by others not, there was great Diversity in the Decisions concerning beneficiary Causes. To provide against, and reconcile these Differences, *Nicholas* V. and the Emperor *Frederick* III. in the Year 1448. made a Concordat (1) of the following Tenor.

That the Benefices vacant in Court should be reserv'd to the Pope, and that the rest of the elective Benefices should go by Election. As for the other vacant Benefices, they should remain for six Months in the Pope's Disposal, and six Months in the ordinary Collators: With this Proviso added, That if the Pope fail'd in the Term of three Months to fill up the Benefices, the Collation should devolve to the Ordinaries (2).

This

(1) Concluded in the Pope's Name, by the Cardinal *John Carvajal*, call'd St. *Angelo*, Legate *à Latere* in *Germany*.

(2) An Extract of the Concordat will here be of use for a Comment on the Words of *Fr. Paolo*.

'We reserve, saith *Nicholas* V. 'to our own Ordination, Dis- 'position and Provision, all 'the Churches Patriarchal, 'Archiepiscopal, and Episco- 'pal; as also Monasteries, Pri- 'ories, Chanonries, and all o- 'ther Benefices Ecclesiastical 'whatsoever, with Cure of 'Souls, and without Seculars 'and Regulars, which are or 'shall be vacant; also those va- 'cant by Deposition, Deprivation or Translation, by us 'formerly

This Agreement was not receiv'd thorough all *Germany*, and ſome Dioceſſes ſince in the Year 1518. obſerv'd the Council of *Baſil*; which aboliſh'd all the Reſervations: But in Proceſs of Time, even thoſe who had receiv'd the Concordat in the Beginning, ceas'd to obſerve it, and excus'd themſelves in ſaying, that it had not been univerſally receiv'd: So that it loſt its Force by being diſus'd; and not only in Places where the Biſhops and Chapters have ſeperated from the *Roman* Church, but even where they ſtill remain under its Obedience.

In

ſ formerly made, or which ſ ſhall be made, in what Place ſ ſoever.

ſ Likewiſe Benefices vacant ſ by the Deceaſe of Cardinals ſ and Officers of the holy See, ſ while they ſhall hold the ſaid ſ Offices; *Exemp. gr.* of Vice-ſ Chancellor, of Chamber'ain, ſ of Notaries, Auditors, Comp-ſ trollers, Abbreviators, and ſ the Benefices which are, or ſ ſhall be vacant, by the Death ſ of our Commenſals, Collect-ſ ors, and Treaſurers, deputed, ſ or which ſhall be deputed in ſ whatſoever Place they hap-ſ pen to die: Moreover, the ſ Benefices of all thoſe who ſ coming to, or returning from ſ *Rome*, on any Occaſion what-ſ ſoever, ſhall happen to die ſ but two Days Journey from ſ the City; provided that the ſ Place of their Death be not ſ the Place of their ordinary ſ Reſidence: Alſo all Benefices ſ ſecular and regular, which ſ they poſſeſs'd at the Time of ſ their Promotion, whom we ſ have promoted to Dignities ſ Patriarchal, Archiepiſcopal, ſ and Epiſcopal, now vacant, ſ or which ſhall be hereafter ſ vacant.

ſ In Churches Metropoliti-ſ cal and Cathedral, not ſub-ſ ject immediately to the holy ſ See, and in the Monaſteries ſ which are immediately ſub-ſ ject to it, Elections ſhall be ſ free, and then be brought to ſ the ſaid See, who ſhall con-ſ firm them, if they be cano-ſ nical.

ſ In Monaſteries which are ſ not immediately ſubject, and ſ in other regular Benefices, ſ for which it is not cuſtomary ſ to have Recourſe to the holy ſ See, the Elected ſhall not be ſ oblig'd to come to *Rome* for ſ their Confirmation or Provi-ſ ſion; beſides, that theſe Be-ſ nefices are not to be rank'd ſ among the Expectatives, nor ſ the Benefices *des Moniales non* ſ *exemptis*, in the Diſpoſition ſ of the Pope.

ſ As

In the Year 1534. *Clement* VII. set forth a severe Bull concerning it, but it scarce had any Effect: *Gregory* XIII.* set forth anorher in the Year 1576. which had as little Effect. And Cardinal *Mandrucci* (3), Legate of *Clement* VIII. in 1594. made a heavy Complaint about it, in the Name of the Pope, at the Diet of *Ratisbon*, but to as little Purpose as the other.

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'As for the other Benefices, 'Seculars and Regulars, not 'comprehended in the Reservations express'd above, we 'freely allow they be provided 'for by the ordinary Collators, 'when they shall fall vacant, in 'the Months of *February*, *April*, '*June*, *August*, *October* and '*December*; the Months of '*January*, *March*, *May*, *July*, '*September*, and *November* shall 'be reserv'd to the Pope: But 'if it happen that the Benefices 'which shall be vacant in these 'Months, have not been con-'ferr'd by the Pope in three 'Months, reckoning from the 'Day of the Vacancy known in 'the Place where the Benefice 'lies, the Collation shall return 'to the Ordinary, or to any 'other to whom the Disposal 'shall belong."

But this last Concession having been the Occasion of many Law-suits, daily arising betwixt those whom the Pope had presented before the three Months were expir'd, and those who had obtain'd the Collations of the Ordinaries, who conferr'd the Benefices from the Day of the Expiration of the three Months, to prevent the Provisions which the Pope might have made, about the End of the Term, *Greg.* XIII. made a Bull, dated *Nov.* 1, 1576. by which he declar'd, 'That the Conces-'sion of Pope *Nicholas* V. gave 'no room to the Ordinaries, 'nor the other Collators, to 'dispose after the Expiration 'of three Months, any Bene-'fices comprehended hereto-'fore under this pretended 'Concession: But also that for 'the future, those whom the 'Pope shall have provided 'with these Benefices, shall 'be oblig'd either to signify 'their Impetration, or obtain-'ing the Benefice, to the Col-'lators, within three Months, 'reckoning from the Day of 'the Vacancy known in the 'Place where the Benefice lies, 'or to publish it in what Man-'ner soever it be thought fit 'in the said Place: Declaring 'null, and of no effect, all the 'Dispositions and Provisions 'made by the said Collators 'after such Publication: And 'suspending from the Collation

of

The ſame Diverſity and Confuſions remain ſtill to this Day; for which the Court of *Rome* hath but two Remedies: One is, that the Jeſuits turn all their Skill to work upon the Conſciences of the Beneficiaries at their Confeſſions, to perſuade them to take Bulls from *Rome* for Benefices, tho' provided for by the Ordinaries; and ſome accordingly are prevail'd with. The other is, That when an Election or Collation is made that claſhes with the Concordat, the Court of *Rome* annuls it, but then confers the Benefice on the ſame Perſon: An Expedient heretofore much uſed on other Occaſions, as it is at this Day in the Caſe of Benefices of great Importance, and where the Perſons are in ſome meaſure dependant on them. Not that it is of Service at the Time it is practis'd, but becauſe the Writings are carefully kept, and ſerve as Regiſters of theſe Matters, to prove in After-times, that ſuch and ſuch Places have paid Obedience: As alſo many Conſtitutions and Decretals, which have never had their Effect, are skilfully inſerted in the Books of Decretals, to make more Precedents, and draw more Conſequences to their Advantage.

' of all Benefices and Offices, ' all Collators, who ſhall pre- ' ſume to infringe this Declaration.

This Bull of *Gregory* XIII. ſheweth, that whatever Concordats and Accomodations the Popes made with Princes, they always pretended to have a Right of annulling them, as made by way of Proviſion only, with regard to the Neceſſity of the Times, and until a proper Seaſon offer, to exert their Right in its utmoſt Rigour.

* The *French* Tranſlation ſaith *Gregory* XIII. for *Gregory* VIII. in the *Italian.*

(3) *Lewis*, Nephew of *Chriſtopher Madrucci*, Cardinal and Biſhop of *Trent*, and his Succeſſor in this Biſhoprick.

CHAP. XLVII.

IN *France* the Pragmatick-ſanction was vigorouſly attack'd by *Pius* II. (1), but defended with great Conſtancy by the Clergy of *France*, and the Univerſity of *Paris*. Upon which the Pope repreſented to King *Lewis* XI. That it would ill become him to ſuffer the Decrees of the Council of *Baſil* to be obſerv'd in his Kingdom; for the Diſſolution of which himſelf had taken Arms, and had receiv'd Money from Pope *Eugenius* IV. for that Purpoſe, when he was Dauphin, and had left his Father's Court in Diſcontent. Theſe Reaſons wrought upon the King to revoke the Pragmatick (2): But the Oppoſition made by the Univerſity, and the Remonſtrances by Parliament, which are ſtill found upon the Journals, where the Grievances of the Kingdom, and of the Clergy or Eccleſiaſtical Orders are repreſented, ſetting forth, That upon a ſtrict Obſervation, in three Years time there had gone to *Rome* four Millions for Beneficiary Affairs, prevail'd with the King to re-eſtabliſh it at the End of three Years (3). *Sixtus* IV. to ward this Blow, and to fruſtrate the Re-eſtabliſhment, made a Concordat of his own,

(1) He cried, *Guerra, Guerra uſq; ad capillos.*

(2) In 1461. in the 4th Month of his Reign.

(3) *Paul* II. Succeſſor to *Pius*, ſent *John Jofredi*, Cardinal-Biſhop of *Albi*, to perſuade him to confirm the Revocation of the Pragmatick: But after the Revocation had paſs'd at the Chaſtelet, the Cardinal met with a formal Oppoſition in Parliament, from *John de St. Roman*, Attorney-General, and at his Return to his Houſe, the Univerſity ſignify'd to him their Appeal to a general Council, and then went to regiſter it at the Caſtelet. *See the Ordinancee of* Lewis XI. Sept. 10. 1464. *in the Conference of Ordinances*, lib. 1. Tit. 3. part. 2. §. 4.

which

which is extant at this Day, but never was receiv'd; and the Pragmatick remain'd in Force. *Innocent* VIII. *Alexander* VI. and *Julius* II. set all their Strength to abolish it, but in vain (4).

(4) They were in terrible Frights, lest the rest of the Christian Princes should take the Example of *France*, and make Pragmaticks of the same Nature, to bridle the Papal Power.

CHAP. XLVIII.

AT Length *Leo* X. fram'd a Concordat with King *Francis* I. of *France*: Of which the chief Articles were:

That the Pragmatick should be abolish'd: And the Election of Bishops and Abbots should be taken from the Cathedral and Collegiate Churches, and given to the King, who was to name a fit Person, and the Pope to confer the Benefice: It was farther concluded, that the Pope could not give Expectatives, nor make any Reservations general or special: But that the Benefices which should be vacant in four certain Months in the Year to be specify'd, should be confer'd by the Ordinaries on the Graduates of the Universities: And that those vacant in the other eight Months, should be confer'd by the Ordinaries, *ad Libitum*, on whom they pleas'd: Only that every Pope might oblige every Collator who should have from 10 to 50 Benefices in his Disposal, to confer one as his Holiness should di-

rect; and even two, if the Collators should have 50 or more (1) Benefices in his Collation.

Tho' there were great Difficulties to encounter in making this Concordat be receiv'd, and that the University appeal'd to a general Council, lawfully conven'd; yet the King's Authority and Interest prevailing, it was publish'd and put in Execution throughout all *France* (2).

Thus after so many Popes had, betwixt the Years 1076. and 1150. thunder'd out so many Excommunications (3), and set on work so many Conspiracies and Rebellions, with the Loss of many Millions of Lives, in order to wrest from Princes the Collation of Bishopricks, and to give the Election to the Chapters; on the contrary the Quarrel seems now inverted, and *Pius* II. and five of his Succes-

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(1) Cardinal of *Lorrain* debating in the Council of *Trent* on the Article of Election of Bishops, saith, That St. *Leo* X. and *Francis* I. had divided betwixt them the Collations of Benefices of the Kingdom, as the Hunters do their Prey. *End of the 7th Book of the Hist. of the Council.*

But that which *Mezeray* saith of the Concordat is worthy of Observation, *Leo* X. saith he, made the Concordate with *Francis* I. by which he obtain'd an Abolition of the Pragmatick, and assur'd to himself the Annates, payable at every Change of Bishops and Abbots. This Compromise in Reality encreaseth the Revenues of the Popes, but extreamly sullies their Reputation in so fantastick an Exchange. The Pope, who is a spiritual Power, takes the temporal Power to himself, and parts with the spiritual; that is, the Nomination of Bishops, to a temporal Prince.

(2) the Clergy of *France*, saith the same Author in another place, the Universities, the Parliaments, and all good Men, put up Complaints, Remonstrances, Protestations, and Appeals to a general Council. Nevertheless, at the End of two Years, absolute Power was to be obey'd, and the Concordat was registred in Parliament.

(3) From the Time of *Gregory* VII. to *Innocent* IV. which contains 200 Years, there were seven Emperors excommunicated, *viz.* *Henry* IV. *Henry* V. *Frederic* I. *Philip* I. *Otho* IV. *Frederick* II. and *Conrad* I.

sors

ſors (4) have with the ſame Zeal and Conſtancy been ſtruggling to take the Election from the Chapters, and give it to the King, which *Leo* X. at laſt accompliſh'd. So true it is, that a Change in Intereſts draws along with it, both a Change and even a Contradiction in Doctrines.

Thinking and ſpeculative Men, ſuch as were apt to inquire into the Reaſons of this great Change in the Popes, have aſcrib'd it to the Diſlike they had to the Elections of the Clergy, which keep too much in Memory the ancient venerable Form and Figure of the Church in this Practice and univerſal Doctrine of Elections; of which we find at this Day ſo faint a Reſemblance left: Others found other Reaſons, As that it would be eaſier to get the Collations out of the Hands of a Prince, if he happen'd to be a weak one, or to ſtand in need of the Pope's Friendſhip, than out of the Hands of the Biſhops and Clergy.

Francis I. again made many Laws to regulate the Right of Poſſeſſion of Benefices, and obſerv'd the Concordat with great Exactneſs. But *Henry* II. his Son, ſuſpended the Execution of it, during the Time he was at Wars with Pope *Julius* III. in the Duke of *Parma*'s Quarrel (5). For in the Year 1551. he forbad all Kinds of Proviſions of Benefices to be receiv'd from *Rome*, and commanded that they

(4) *Paul* II. *Sixtus* IV. *Innocent* VIII. *Alexander* VI. and *Julius* II.

(5) The Duke of *Parma* put himſelf under the Protection of *France*, to defend himſelf againſt the Emperor his Father-in-Law, who would have ſeiz'd *Parma* as he had done *Placentia*. The Pope ſummon'd the Duke to appear at *Rome*, and for not appearing declar'd him Rebel: The Emperor who had kindled the Flame, took the Pope's Part, and the King of *France* the Duke's.

ſhould all be confer'd by the Ordinaries (6): But when the Peace was concluded, the Concordat was again eſtabliſh'd.

In the Year 1561. the Eſtates held at *Orleans*, during the Minority of *Charles* IX. reform'd the Collation of Benefices in ſeveral Particulars, and took away many things contain'd in the Concordat (7). But great Confuſions and Wars following in that Kingdom, at a Time when the Cardinal of *Ferrara* (8) came Legat into *France*, he obtain'd a Suſpenſion of the Ordinances made at *Orleans* (9); on Condition that the Pope ſhould forthwith put a Stop to theſe Corruptions, which had given Occaſion to that Remedy: But nothing of this being put in Execution, the Concordat ſtill remains in Force. And thus Affairs paſs'd in *Germany* and *France*.

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(6) That Edict ſet forth, That it was not juſt, that *France* ſhould furniſh the Pope with Money to make War with the *French* Nation; and therefore forbad abſolutely, that any Silver or Gold ſhould be carried to *Rome*, or into any other Place under the Pope's Obedience, for Benefices, Diſpenſations, or other Graces, under Pain of Confiſcation to Eccleſiaſticks, and of corporal Puniſhment to Seculars; giving the third of the Confiſcation to thoſe who ſhould inform.

And the Procurator-general, when he made the Edict be verify'd in Parliament, ſaid, It would be a notorious Folly in the *French* Nation, to find the Court of *Rome* with Money, to make War againſt their own Prince. And beſides, that they could eaſily live without the Papal Diſpenſations, which however were not of Force to acquit our Conſciences before God.

(7) In the Convention of thoſe Eſtates, the Deputies of the Clergy declare, that they had obſerv'd, that the Hereſy of *Luther* was born in the ſame Year with the Concordat.

(8) *Hippolitus* of *Eſte*, of the Houſe of the Dukes of *Ferrara*, Grandſon of Pope *Alex.* VI.

(9) One of which was to forbid paying the *Annates*, and ſending any Money to *Rome* for Benefices, or Diſpenſations.

CHAP.

CHAP. XLIX.

BUT the Face of Affairs in *Italy*, ſince we laſt deſcrib'd them, hath in a great Meaſure been chang'd by the holding the Council of *Trent*, who made many Decrees againſt the Abuſes then reigning in the Matter of Benefices.

And tho' from the firſt opening of that Council, which was in the Year 1547. it began to ſet itſelf in Earneſt about a Reformation, yet none of the Decrees it made being put in Execution, till after its Concluſion, which was in the Year 1563. they muſt all be reckon'd to take their Riſe from that Time.

Three Things this Council chiefly had in View to remedy, *Firſt*, Plurality of Benefices; *Secondly*, Hereditary Succeſſion; and *Thirdly*, Non-reſidence.

To take away Pluralities, it was decreed, That no Perſon, not even a Cardinal, ſhould hold more than one Benefice; and if that were not ſufficient for the Support of the Incumbent, he might have one more without Cure of Souls (1). *Commendams* for Life

(1) Quoniam multi ea quæ bene conſtituta ſunt, variis artibus eludere, & plura ſimul beneficia obtinere non erubeſcunt, ſancta Synodus præſenti decreto, quod in quibuſcunq; perſonis, quocunq; titulo, etiam ſi Cardinalatus honore fulgeant [the Cardinals are here expreſly nam'd, which the *Spaniſh* Biſhops could not obtain in 1547. when they remonſtrated the Neceſſity of naming them, ſeeing, according to the Canoniſts, they are never comprehended under general Terms] mandat obſervari, ſtatuit, ut in poſterum unum tantum beneficium Eccleſiaſticum conferatur: Quod quidem ſi ad vitam ejus cui confertur, honeſte ſuſtentandum non ſufficiat, liceat nihil ominus aliud ſimplex, ſufficiens, dummodo utrumq; perſonalem reſiden-

Life were forbid to be enjoy'd with Benefices that had Cures, as being a Cover for holding two (2). It was also decreed, That for the Future no Monasteries should be turned into *Commendams*, and that those which were, should be turn'd again into Titles, as they became vacant (3). It prohibited also Unions for Life, which was another Pretext of giving several Benefices under one Name (4).

To abolish Hereditary Succession, it absolutely prohibited the Regress and Access; as also Coadjutorships, with Succession in Reversion, except in Cathedrals and Monasteries: And it took the Liberty to exhort the Pope to grant none, but for just

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residentiam non requirat, eidem conferri. Hocq; non modo ad Cathedrales Ecclesias, sed etiam ad alia omnia beneficia quacunq; etiam commendata pertineant, cujuscunq; tituli ac qualitatis existant, *Chap.* 17. *of the Decree of the Reformation, of Session* 24. Where it is worthy of Observation, that this Chapter serves for an Explanation of the 2d Chapter of Session 7. which speaks only of Cathedral Churches, and makes no mention of Cardinals, but in these general Terms [*quacunq; etiam dignitate aut præeminentia præfulgens*] by which the Cardinals, according to the Rule of the Canonists just now alledg'd, might retain several Bishopricks.

(2) Quicumq; plura beneficia curata sive per viam unionis ad vitam, seu commendæ perpetuæ recipere, ac simul retinere præsumpserit, beneficiis ipsis, præsentis canonis vigore, privatus existat, *Chap.* 4. of the Reformation of *Session* 7.

(3) Confidit (sancta synodus) sanctiss. Rom. Pontificem, pro sua pietate, & prudentia, curaturum, ut monasteriis, quæ nunc commendata reperiuntur, quæ suos conventus habent, regulares personæ ejusdem ordinis præficiantur. Quæ vero in posterum vacabunt, non nisi regularibus conferantur. *Chap.* 21. of Reformation of Regulars, *Session* 25.

(4) *See the last Note but one, to which the Chap.* 17. *of the Reformation of Session* 24. *addeth,* Illi vero, qui in præsenti plures parochiales Ecclesias obtinent cogantur omnino, quibuscunq; dispensationibus ac unionibus ad vitam non obstantibus, una tantum parochiali retenta, alias infra spatium sex. mensium dimittere, &c.

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and evident Cauſes (5). But this Prohibition hav prov'd without any Effect.

In the fourteen laſt Months of this Council (6), the Point of Reſidence was debated with ſome Warmth: For, upon a Queſtion mov'd by the Doctors, Whether Reſidence of Biſhops and Curates at their Churches were of Divine Right, or a Right only founded on the Canon-Law, the Council was ſo divided, that in the Month of *April*, in 1562. coming to a Scrutiny, there were found 67 Votes for the *Jus Divinum*, 33 for the *Jus poſitivum*, and 30 for coming to no Concluſion at all, without firſt conſulting the Pope.

Theſe of the firſt Opinion were thoſe of the *Tramountains* and northern Nations, and other diſcontented Biſhops: Of the ſecond and third Opi-

(5) Cum in Beneficiis Eccleſiaſticis ea, quæ hæreditariæ ſucceſſionis imaginem referunt, ſacris conſtitutionibus ſint odioſa, & Patrum decretis contraria, nemini in poſterum acceſſus, aut regreſſus etiam de conſenſu, ad beneficium Eccleſiaſticum cujuſcunq; qualitatis concedatur ---- hocq; decretum in quibuſcunq; beneficiis Eccleſiaſticis ac in quibuſcunq; perſonis, etiam Cardinalatus honore fulgentibus, locum habeat. In Coadjutoriis quoq; cum futura ſucceſſione idem poſt hac obſervetur, ut nemini in quibuſcunq; beneficiis Eccleſiaſticis permittantur. Quod ſi quando Eccleſiæ Cathedralis, aut Monaſterii urgens neceſſitas, aut evidens utilitas, poſtulet Prælato dari Coadjutorem, is non alias cum futura ſucceſſione detur, quam hæc cauſa prius diligenter à ſanctiſſ. Rom. Pontifice ſit cognita ---- alias conceſſiones ſuper his factæ ſurreptitiæ eſſe cenſeantur. *Chap.* 7. of the general Reformation of the *Seſſion* 25.

(6) This Matter was the firſt time handled in the Year 1546. The firſt who began to awaken Mens Thoughts in this Matter, were two *Spaniſh Jacobins*, *Bartholmew Caranca*, and *Dominiq; Soto*, who urged vehemently, that Reſidence was of Divine Right: Which Opinion Cardinal *Cajetan*, who was of the ſame Order, had maintain'd ſome Years before, but was ſaid to have changed his Opinion, when he came to be a Biſhop, becauſe he never reſided at his Biſhoprick.

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nion were those who adher'd to the Court of *Rome* (7).

If Residence had been declar'd of Divine Right, it must have follow'd, that the Pope could not dispense with it; and that the Authority of the Bishops must have been of Divine Right, and that consequently no human Power could restrain it (8). All which had a dangerous Tendency to the Diminution of the Papal Power.

Thus the two Parties maintain'd the Dispute with great Warmth and Freedom, till at length from debating they fell into Factions and Cabals: And at

(7) In the sixth Book of his Council of *Trent* he saith, That the Legates got a Writing to be read in a general Congregation, by which the Fathers were desir'd to declare their Opinions, whether Residence were of Divine Right or no, by the single Expression of *Placet*, or, *non Placet*. And that the Votes being taken, 68 were found *Placet*, 33 *non Placet*, and 13 *Placet, consulto prius sanctissimo Domino nostro*, and 17 *non Placet, nisi prius consulto S. D. n.* He adds, That the 13 differ'd from the 17, in that they were for the Divine Right being declar'd, whereas the 17 were in Effect not for it, but consented in case the Pope gave his Consent: And tho' these Distinctions were Metaphysical enough, yet the 13 and 17 were equally agreed in making their Court to the Pope.

(8) *Paul Jovius* Bishop of *Nocera*, debating on the Point of Residence in the Council, said, That as the *Jus Divinum*, if once it were admitted, was a Thing could never be disclaim'd again, so it would serve as a Buckler to all rebellious Bishops against that Pope, whenever he cited them to *Rome*, to give an Account of their Actions or Doctrine; as the Archbishop of *Cologne* had done against *Paul* III. That he much fear'd some Bishops would, under Covert of the *Jus Divinum*, withdraw themselves from the Obedience of the Pope, on which depended the Union of the Church: But he would venture to tell them, this would be a fair Encouragement to the Curates to shake off the Episcopal Authority; because, being the immediate Pastors, they would pretend that their Flock was nearer to them than to the Bishop; by which the Hierarchy of the Church would degenerate into Anarchy. *Hist. Conc. Trent. lib.* 6. & 7.

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the End of 14 Months, Residence was determin'd and enjoin'd, but without declaring by what Right Men were oblig'd to it. Only Penalties were laid on such as did not reside (9. And for the rest, all things were left in their former Estate.

In the mean time those who were present at this Council, and who have since left any Writings behind them, especially of Divinity, have not scrupled to assert, That Residence is of Divine Right, and that to affirm the contrary, was to deny the sacred Scriptures, all Antiquity, and even natural Reason itself (10). But then, not to draw the In-

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(9) Ne ea quæ de Residentia sancte & utiliter jam antea sub felicis recordat. Paulo III. sancita fuere in senus a sacro-sanctæ Synodi mente alienos trahantur ---- declarat sacro-sancta Synodus omnes Patriarchalibus, Primatialibus, Metropolitanis, ac Cathredalibus Ecclesiis quibuscunq; præfectos etiamsi S. R. E. Cardinales sint, obligari ad personalem in sua Ecclesia, vel Dioceſi residentiam, ubi injuncto sibi officio defungi teneantur, neq; abesse posse ---- Nisi Christiana charitas, urgens necessitas, debita obedientia, ac evidens Ecclesiæ vel Reipublicæ utilitas postulent, & exigant.

And one Page after,

Si quis autem contra hujus decreti disposition abfuerit, statuit sacro-sancta Synodus præter alias pœnas adversus non residentes sub *Paulo* III. impositas, & mortalis peccati reatum, quem incurrit, eum fructus suos tuta conscientia retinere non posse, sed teneri illos fabricæ Ecclesiarum, aut pauperibus loci erogare, prohibita quacunq; conditione, vel compositione, quæ pro fructibus male perceptis appellatur, *&c.* *And as for Curates,*

Liberum esse vult Ordinariis per censuras Ecclesiasticas, & subtractionem fructuum, aliaq; juris remedia etiam usq; ad privationem compellere. *Cap.* 1. of the Reformation of *Sess.* 23.

(10) The *Jacobin* Fryar *Barthelomew Caranca*, scrupled not to say, in Presence of all the Fathers of the Council, That it was a diabolical Doctrine. It were to be wish'd, that the Bishops of the Court were so persuaded; they would not then stay till the Prince, weary of seeing their Faces, sends them to reside in their Bishopricks; or at least, that when they are commanded thither, they would not think themselves going into Banishment.

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dignation of the Court of *Rome* too much upon themſelves, they found out ſome Exceptions, by which the Pope had a fair Way left open to Diſpenſations.

As for the Reſervations, tho' a Point ſo eſſential, and now grown to exceed all Bounds, the Council let them paſs unobſerv'd, becauſe, indeed, they concern'd the Pope's own Perſon; ſo they continued as they were, and by continuing, they have ſince encreas'd *.

* See the three laſt Pages of the following Chapter.

CHAP. L.

IT was imagin'd, with great Appearance of Probability, that the Abolition of the Unions, *Commendams* for Life, the Regreſs, and Coadjutorſhips would have proved a ſovereign Remedy, at leaſt to the greateſt Part of theſe Corruptions. But an Expedient was quickly found on this, as on other Occaſions, to elude the Efficacy of the beſt Medicines; an Expedient, which had not only the ſame laudable Effect with the four Inventions which were ſuppreſs'd, of religiouſly preſerving all the Abuſes, but even a greater: This was, the Penſion.

It hath been an Obſervation of pious and devout Perſons, That the Court of *Rome*, as if it had been a ſtanding Order in thoſe Times, never ſuffer'd a gainful Abuſe to be corrected or aboliſh'd, but ſhe had a higher to put in the Room of it, more notorious and more profitable: Which is ſufficiently verify'd

verify'd in this of the Penſion. Yet it is not to be underſtood, as if the charging Benefices with Penſions were an Invention of our Times, but only the Manner, and the frequent Practice of it, which is new and peculiar.

When all the Eccleſiaſtical Goods were in Common, the Name of Penſion was a Thing unheard of: And when they came to be ſet out and divided into Benefices, the univerſal Practice, without any contrary Inſtance, was to confer them intire, and without Diminution. But afterwards, when the Clergy had learn'd to litigate their Rights, and thoſe Rights were doubtful, it was a natural Compromiſe for one of the Parties to yield up his Pretenſions, upon his having on Part of the Revenues allotted to him, under the Name of Penſion*. Likewiſe if two Incumbents, for ſome good Cauſe, agreed to exchange Benefices, with the Conſent of the Biſhop, he who quitted the better Benefice had it made up to him in a Penſion †. And again, when any one reſign'd with the conſent of the Prelate, a Penſion was aſſign'd him for his Maintenance *.

Of theſe three ſorts of Penſions, the Decretals of the Popes towards the Year 1200. make Mention: *France* admits them ſtill as legitimate ¶ and authen-

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* See the Chap. *Niſi eſſent* 21. *extra, de Præbendis*; which is the Foundation of Penſions, according to the Gloſs, which ſaith upon this Decretal, that *Occaſione hujuſmodi proviſionis aſſumunt quandoq; aliqui cauſam male faciendi.* Gloſſ. in verb. ex juſſione, in fine.

† Cap. 6. extra de rerum permutatione.

* Vide Cap. ex parte 12. extra, de officio Judicis de leg. & ibi Felin. Num. 1. Felin. ad Cap. ad audientiam. Num. 2. extra de reſcriptis.

† Vide Rebuff. tract. de pacifis, Num. 110. Duaren de benefic. Lib. 6. cap. 4. Coras Sacerdot. paraph. 1. cap. 4. Num. 12. & Joan. Davezan de penſionib. benefic. pag. 88.

¶ Cap. per tuas, extra, de donationibus.

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tick, whereas she rejects a Train of others as deserving, and of great Variety; namely, such as are given to one for his Livelihood only, and for no other Consideration; or for having merited well of the Apostolick See; or for having serv'd such a Church or such a Prelate; for being learn'd or for Probity of Manners *: Or only for being in the Pope's good Graces: And lastly, such as are given to Children, because they are of promising Parts.

All these are justifiable Motives, according to the Canonists, for granting Pensions; to which they scruple not to add, that the Pope may charge any Benefice whatsoever with a Pension, and give one to whomsoever he pleaseth, without any of the Causes allowed; and that its being the Pope's Will, is sufficient to secure the Conscience of him that receiveth it.

So that, whereas formerly it was usual to hold two Benefices with Cure of Souls, the one in Title, the other in *Commendam*, or else the two united Benefices for Life, with Obligation to allow a Stipend to the Priest who officiated in one of them: At present the Benefice is given in Title to another, and the Revenue of it, by way of Pension, to himself; which turns all to the same, and even answers better all the Ends it was design'd for: Before, the Beneficiary was answerable for the Faults of his Substitute, and therefore was oblig'd to have an Eye over his Behaviour; but this way he hath the same Advantage, freed from all the Care.

Likewise, whoever took a Coadjutor to assist him, or resign'd with a Condition of Regress, had still some Care of the Benefice remaining on him, where-

* Cap. de multa, in fine extra, de præbendis. Davezan de Pensionibus p. 89.

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in he had ſome Intereſt, by the Power he had of re-entring. But on the contrary, he who reſigns, reſerving to himſelf a Penſion, delivers himſelf at once from any Care or Duty incumbent on him from the Benefice: And whether the Reſignee die or reſign, is wholly unconcern'd, his Penſion being ſecured and paid without any Trouble.

Sundry other Conſiderations make a Penſion more eligible than a Benefice. Many Benefices require entring into holy Orders, and conſequently a certain Age to qualify him for the receiving them: The firſt Tonſure, and the Age of ſeven Years qualify for a Penſion.

Penſions are alſo given even to Laymen; as to the Knights of St. *Peter*, who were inſtituted by *Leo* X. To the Knights of St. *Paul*, who were inſtituted by Pope *Paul* III. To thoſe call'd the pious Knights inſtituted by Pope *Pius* IV. and to thoſe of *Loretto* by Pope *Sixtus* V. Every one of which may have from 150 to 200 Crowns in Penſions, and to whomſoever the Pope pleaſeth beſides.

When Men held more than one Benefice at a Time, there was always a Complaint of ſomething wanting, ſomething to be mended, for which a Diſpenſation was neceſſary, which coſt Money. And yet for all this, the Caſuiſts have been ſo incurable in their Scruples, as to Doubt, whether even Diſpenſations can ſet the Conſcience clear in this Caſe: But for Penſions, they may be held without Scruple, and without Number, no Penſions being incompatible.

Another Advantage in a Penſion is, That it may be given with a Power of aſſigning it to another at Pleaſure, which cannot be done in the Caſe of Benefices, without paſſing through the Forms of Reſignation: And whereas Reſignations are not valid, if the Reſigner live not 20 Days after, a Penſion

sion may be transfer'd and assign'd at the Point of Death.

But the Consideration which recommends it beyond all others is, that a Pension may be extinguish'd, or to speak more intelligibly, may be turned into ready Money; tho' every Contract made where a Benefice is, the Consideration is reputed simoniacal.

By extinguishing a Pension, is only meant to receive a Sum of Money from the Beneficiary or Incumbent, which dischargeth him from paying the Pension: Which Sum is determined by the Age of the Pensionary.

Before our Days, when there lay no way open of making Money of Benefices, it would have pass'd for an infinite Offence both against GOD and Men: Now it is done avowedly, in these Terms, *I have a Benefice of* 200 *Crowns value, I resign it to* John *or* Thomas, *for a Pension of* 100 *Crowns: And afterwards I extinguish the Pension for* 700 *Crowns paid down: Thus I have made* 700 *Crowns of my Benefice without Sin.* All which Circuit of Words to People of gross Understandings and little Penetration, seems to amount only to this, *That I had sold my Benefice for* 700 *Crowns.*

There are besides many more Conveniencies belonging to a Pension, according to the Practice at this Day, than to Unions, *Commendams*, Coadjutorships, or Regresses. Some People, who extolling the many fruitful Ways the Pope hath of raising Money for the Occasions of the Apostolick See, have affirm'd, That if he should set open the Door of the Regress only, he might raise all he had occasion for, extreamly betray their Ignorance in these Beneficiary Matters; for the Regress would not now

now bring in one Farthing (1): The Penſion is, by many Degrees more preferable for Profit and Convenience: It was therefore the eaſier to execute [*il Concilio le Concile*] as it turn'd more to Advantage.

This ſeems neither intelligible in the *Italian* nor *French*.

But the taking away *Commendams* (2) from the Monaſteries, which the Council likewiſe enjoin'd, hath been without Effect (3) to this Day, and even many Monaſteries, which were in Title only, have been ſince turned into *Commendams*, for want of ſome Contrivance to make Advantage of their Suppreſſion: And ſince the Penſion can be impos'd by none but the Pope, the Court of *Rome* draws great Advantage from that Privilege.

Theſe were the Changes introduced in *Italy* by the Council of *Trent*, which, by not having taken any Notice of the Reſervations, have given an Opportunity of multiplying them to that Degree, that the Pope hath five Parts in ſix of the Benefices in his Diſpoſal; with very reaſonable Hopes, that the Sixth which remains, will go the ſame way.

By the Rules of Chancery, all ſuch Benefices are reſerv'd to the Pope, as *John* XXII. and *Benedict* XII. reſerv'd to themſelves *; and alſo all ſuch as were

(1) Seeing thoſe who obtain'd them would not be able to make any uſe of them, becauſe of the Oppoſition from the Biſhops and Magiſtrates, eſpecially in *France*, where the Parliament of *Paris* hath hinder'd their being receiv'd.

(2) In the Chap. 21. of the Reformation of Regulars, of the Seſſion 25. quoted in the Notes of the precedent Chapter.

(3) For the Court of *Rome*, always ſubtle in Diſtinctions, thought fit to declare, after the cloſing the Council, that the Benefices which had accuſtom'd to be in *Commendam*, might reaſonably remain ſo. Now ſeeing for more than 100 Years the Popes had put almoſt all the regular Benefices in *Commendam*, there were very few left, which had not had two or three Commendatories, and conſequently Cuſtom was always adjudged to be on their Side, for being in *Commendam*.

* See the Rules in Chancery, *tempore* Innocent. X. *Rule* 1.

obtain'd by any Person who had been an Officer in the Court, tho' he had quitted the Office. To him also are reserv'd all Patriarchats, Archbishopricks, Bishopricks, and Religious-Houses of Men, which exceed the Value of 200 Florins of Gold †; likewise all Benefices becoming vacant by the Cession, Deprivation, or Death of the Collator, whoever he be, until his Successor have obtain'd peaceable Succession: All the chief Dignities in Cathedral and Collegiate Churches, Priories, Provostships, and other conventual Dignities and Preceptories of all the Orders, except the Military: Benefices held by any Domestick of the Pope or Cardinals, tho' he were no longer in their Service, and tho' he had quitted it, or tho' his Master were dead: All Benefices held by Collectors and Sub-collectors; All held by *Roman* Courtiers, who happen to die in in the Journey, when the Courts travels: All held by Chamberlains, and Criers or Serjeants *. Besides all these Reservations, which in Reality comprehended all the principal Benefices, and a great part of the rest, the Pope generally reserves to himself all those which should become vacant in eight Months of the Year ¶, leaving only four Months of Disposal to others: And yet this is only for such Benefices as are not of the Number we have recited. Lastly, a Constitution of *Pius* V. reserves all Benefices vacant for Heresy (4), or for *Confidentia*

† Rule 2. ¶ Rule 4.
* Rule 5, 6, 7.
† Rule 9.

(4) Omnia & singula beneficia Ecclesiastica, cum cura, & sine cura secularia, & quorumvis Ordinum etiam S. Joannis Hierosolymitani, & aliarum quarumvis militiarum regularia, quæcunq; & qualiacunq; sint, etiam si secularia, canonicatus & prebendæ, dignitates & personatus, administrationes, vel officia in Cathedralibus etiam Metrapolitanis, vel Collegiatis, & dignitates ipsæ in Cathredalibus

*dentia**(5), and all that shall not be conferr'd according to the Decree of the Council of *Trent* (6). So

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thredalibus etiam Metrapolitanis post pontificatus majores, seu Collegiatis Ecclesiis hujusmodi principales Regularia vero beneficia hujusmodi, monasteria etiam consistorialia, prioratus, præposituræ, præpositatus dignitates etiam conventuales, vel officia etiam claustralia, ac hospitalia, & præceptoriæ, ordinationi & dispensationi nostræ & sedis Apostol. hac perpetuo valitura constitutione, authoritate apostolica, tenore præsentium reservamus Declarantes omnes & quascunq; impetrationes de beneficiis quomodocunq; qualificatis, in futurum faciendas, & obtinendas, beneficia hujusmodi propter hæresim vacantia, & in futurum vacatura, non comprehendere, nisi specialiter vacationis modus propter crimen hæresis expressus fuit. *Decret. lib.* 7. *tit.* 11. *cap.* 4. This Constitution is in *January*, 1566.

* Which is keeping a Benefice in private Truft for another.

(5) Ad aures nostras pervenit, ut nonnulli non veneantur ——— beneficia secularia, & regularia in Confidentiam, quam Simoniacam pravitatem sapere non ignorant, acceptare, ac retinere. Nos —— ne abusus, vel potius delictum hujusmodi ulterius progrediatur, celeri remedio providere volentes, præmissorum omnium cognitionem nobis, & successoribus nostris Rom. Pontificibus reservantes, omnes & singulas confidentiarum hujusmodi causas, per nos summarie, simpliciter, & de plano, audiendas, cognoscendas, decidendas, & totaliter exequendas, ad nos avocamus, decisioniq; & terminationi per nos super illis faciendæ standum, acquiescendum, & omnino parendum & obediendum fore, statuimus & ordinamus. *Decret.* 7. *tit.* 10. *cap.* 10.

(6) Nos ad quorum notiam pervenit, nonnullos ex venerand. fratribus nostris Archiepiscopis, & Episcopis, excurrente vacatione parochialium Ecclesiarum, eas nullo aut minus rite servato examine, præsertim illo quod per concursum fieri debet ex concilio Tridentino, vel etiam rite servato examine personis minus dignis, carnalitatis, aut alium humanæ passionis affectum, non rationis judicium sequentes, contuliss̄e, volentes hujusmodi, ac etiam futuris periculis occurrere, authoritate Apostolica, tenore præsentium, omnes & singulas collationes, provisiones, institutiones, & quasvis dispositiones parochialium Ecclesiarum ab eisdem Episcopis, & Archiepiscopis, ac quibusvis aliis collatoribus, præter & contra formam ab eodem Concilio Tridentino præscriptam, factas, aut in futurum faciendas, nullas, irritas, ac nullius roboris fore & esse, decernimus & declaramus easq; omnes, sic vacantes, nostræ & sedis Apostolicæ dispositioni reservamus. *Ibid. Cap.* 2.

that whoever shall put all these Reservations together, will be found to have done the Pope no Wrong in the Calculation, and that he hath at least five times as many Collations as all the other Collators put together.

To give every one their Due, we ought not to pass over in Silence the vigilant Care express'd by the Popes, that the Bishops themselves and the other Collators should have no Door left open to practise any Abuses. And therefore they have never been allow'd to uniteBenefices for Life, nor to put them in *Commendam* for Life; nor to dispense with the Plurality of Benefices which are incompatible; nor to grant Regresses or Coadjutorships with Succession in Reversion: And now the Popes shew the same Vigilance at this Day, in prohibiting the Prelates to charge any Benefice with the least Pension, or to receive Resignations *in Favorem:* And even as to absolute Resignations, which have been of so ancient Usage in the Church, *Pius* V. in 1568. prohibited all the Ordinaries, who receiv'd any Resignations, under the most grievous Penalties, from conferring the Benefice resign'd, to any of the Parents, Allies, or Domesticks of the Resigner; enjoining too, that neither by Word, Gesture, nor any other Sign, the Person should have any Intimation to whom the Resigner desir'd the Benefice should be given (7).

CHAP.

(7) Caveant Episcopi, itemq; omnes Electores, præsentatores & patroni tum Ecclesiastici, quam Laici, ne verbo quidem aut nutu, aut signo futuri in hujusmodi beneficiis successores ab ipsis resignantibus, aut aliisq; eorum significatione, vel hortatu designentur, aut de his assumendis promissio inter eos, vel etiam intentio qualiscunq; intercedat. Ceterum præcipimus atq; interdicimus, ne ipsi Episcopi, aut alii collatores de benificiis, & officiis resignandis, aut suis, aut admittentium consanguineis,

ſanquineis, affinibus, vel familiaribus etiam per fallacem circuitum multiplicatarum in extraneos collationum, audeant providere —— Qui contra fecerint, a beneficiorum, & officiorum collatione, nec non electione, præſentatione, & inſtitutione, tam diu ſuſpenſi remaneant, donec remiſſionem à Rom. Pontifice meruerint obtinere; & qui talia beneficia ſeu officia receperint, eos prædictis pœnis volumus ſubjicere. *Decretal lib.* 7. *Tit.* 14. *cap.* 3. This Decretal is dated *April* 1, 1568.

CHAP. LI.

IT is conſtantly maintain'd by all the Canoniſts and Caſuiſts, that all Compacts or Bargains in which Benefices are concern'd, are ſimoniacal, when it is done without the Pope's Concurrence, but that being obtain'd, gives a Sanction to every Thing; founded on this univerſal Propoſition, That the Pope cannot commit Simony in beneficiary Matters.

This being a Doctrine with which the World is not much edify'd, ſome Canoniſts more modeſt than the reſt, diſtinguiſh betwixt a Simony forbid by the Laws of G O D, and one forbid by human Laws only (1): Adding withal, that the Pope alone is not capable of committing Simony of the latter Sort: But this Diſtinction ſeems to clear no Difficulty; for that which is not evil in its own Nature, nor forbid by G O D, deſerves not the Name of Simony: Beſides that it is Labour loſt to make a Law, and not to have it obſerv'd. But whoever

(1) This is the Diſtinction upon the Gloſs, upon the Chapter, *Cum pridem* 4. *verbo* [*illicitæ*] *extra de pactis*: Which is followed by all the *Tramontains*. See *Felin ad cap. ex parte* 12. *Num.* 1. *extra de officio Judicis delegati.*

reflects thoroughly on this Point, without seeking a Subterfuge or Evasion by Words, will see that both the one and the other Simony is prohibited by GOD.

Certainly it is a Justice which cannot be denied the Pope, that he hath held the Bishops so strictly to their Duty, that he hath nothing to answer for in that regard. And it is a signal Instance of the Divine Favour, which hath enabled the Popes to preserve the rest of the Church so untainted from the Corruption of Simony, since they have not been able to defend themselves, nor their Court from the Infection.

And as we may have leave to hope (2), that one Day will produce some Pope of so much Vertue, as to make a Reformation in his Court; there cannot surely be a plainer Road than is already mark'd out to him, to accomplish it, in putting himself under the Obedience and Discipline of those Laws, which have been practis'd with so much Rigour on the other Bishops. Then we should soon see the happy Effect, if it were not defeated by Flattery and Insinuations very improper for great Reformations; such as, that the Popes who are, throughout all *Italy* and in some other Places, in Possession of a Privilege so valuable, as not to be subjected to any Rule, have not Reason to divest themselves of the Right (3); and do a manifest Prejudice to the

(2) Chiefly at this Day, when God hath given the Church a Pope irreprehensible, and who having so constantly renounced the Flesh, and the Inclinations of Blood, may say with St. *Paul*, *Mihi mundus crucifixus est, & ego mundo.* Galat. ultim.

(3) For the Court of *Rome* hath establish'd it as a fundamental Maxim, that the Pope hath not the Power of making any Alteration in the Papal Authority, and consequently cannot, for any Reason whatsoever, lawfully release any Right, nor would it be valid.

Apostolick

Apoſtolick See. Which is a Reaſoning ſo directly contrary to the profeſs'd Doctrine which the ancient holy Popes and Fathers have taught.

But it is eaſy to determine, by what hath been ſaid, that if the Pope have ſo abſolute a Power over the Benefices and Eccleſiaſtical Goods, he is ſubject to no Rule himſelf in the Diſpenſation of them. For to reaſon juſtly, If the Church of every particular Place be abſolute Miſtreſs of the Goods ſhe is poſſeſs'd of, becauſe thoſe who had the Property of them before, had transferr'd it to that Church with the Permiſſion of the Prince, who, by Virtue of his Laws, had made it capable of acquiring Eſtates, it follows, that theſe Eſtates ought to be under the Management and Adminiſtration of thoſe, to whoſe Care they are committed; *firſt*, according to the Law, *ſecondly*, according to the Conditions preſcrib'd by the firſt Owner, *viz.* the Donor or Teſtator; and *finally*, according to the Directions of the Church to whom they belong; provided ſtill, they contradict not the Diſpoſition of thoſe from whom ſhe derives her Right.

This is ſo evident, and carries ſo much Conviction along with it, that whoever diſputes it, ſeems either to be void of common Senſe, or wilfully to renounce the Light of his own Reaſon.

The Church-men have the Adminiſtration of theſe Goods, by Virtue of the Laws, which have impowered Chriſtian Communities to acquire immoveable Eſtates, by the Will of the Donors and Teſtators who have bequeath'd them, and by the Authority given by the Church, declar'd in the Canons. They are therefore oblig'd to govern and diſpenſe theſe Goods according to the Laws, Conditions, and teſtamentary Diſpoſitions, and withal, according to the Canons: And whatever is done

contrary to these, can be accounted no other than Injustice and Usurpation.

The Canonists say, That the Pope hath a Power so absolute over the Ecclesiastical Goods and Benefices, that he can unite, divide and bestow them in whatsoever Manner he pleaseth, confer them before they be vacant, erect new ones, impose Services, Burdens, and Pensions, in which no Bounds can be set him (4); and finally end in this decisive Conclusion, That in Beneficiary Matters, the Will of the Pope stands in place of Reason.

It is not easy to carry a Doctrine higher, than where Reason is declar'd useless, yet they stop not here, but add, That the Pope can change Dispositions of Wills (5); and apply the Legacies of Charity

(4) St. *Thomas* did not believe this, who speaks so plainly, declaring, That the Pope is only the principal Dispenser, and that Honesty and Fair-dealing is absolutely necessary to that Trust. He speaks of Bishops, among which he includes the Pope himself in these Terms, *Ecclesiasticorum bonorum sunt dispensatores vel procuratores ---- ad dispensatorem autem requiretur bona fides.* 2. 2. quest. 185. art. 7. Now Honesty and Fair-dealing are as incompatible with the Disposition *Ad Nutum*, as Liberty with Servitude. And consequently, if the Pope is subject to the same Infirmities with other Men, and to the same Passions, his *Ad Nutum* may sometimes occasion Evils, if Princes and Bishops always left him to himself.

(5) Saith the Author, towards the End of his 6th Book of the History of the Council of *Trent*, As Wills take their Force from the Civil Law, they cannot be changed, but by the Prince or Magistrate. And if any one say, that it is the Law of Nature which gives them Force, it is answer'd, That it is for that very Reason that the Ecclesiasticks ought still to have less Authority, since none but the Prince who can dispence with this Law, when there is Reason to do it. Now, according to St. *Paul*, the Ministers of Christ have no Administration but in Divine Matters. It is worthy of Observation, by the way, that the *Roman* Magistrates were so religious in Point of Wills, that even *Tiberius* could not obtain, that the Money

rity to other Purpoſes than they were given. And it cannot be denied, that this Practice has introduc'd all the Changes which the Church has undergone in her Inſtitutions and Pollicies: The Queſtion ſtill remains, if it can admit of any Doubt, who hath err'd, the Ancients, or the Moderns.

Martin Navarr, with ſome others of the moſt moderate among the Canoniſts, reſtrain the Propoſition of their high-flown Brethren to this, That the Pope may only alter Teſtaments, when there is a lawful Cauſe for it. Otherwiſe it would be to deprive a Man of what is his own, and of the Right which the Natural and Divine Law gives him over it: And then proceeding to inſtance in Particular, adds, That the Pope cannot, without good Cauſe, give to one Church what hath been left to another (6): How much leſs then can he do it to Perſons not nam'd?

He ſaith withal, that this Aſſertion of the Canoniſts, That the Will of the Pope is of equal Authority with Reaſon itſelf in Beneficiary Matters, is to be underſtood only of ſuch Things as are of poſſitive Right, but not of ſuch as cannot be put in Practice without violating both the Natural and Divine Law: And thoſe who do not allow an unlimited Power to the Pope, ſhould bring the Canons of the

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Money left by Will to build a Theatre, ſhould be employ'd to another Uſe. *Cenſente*, ſaith *Suetonius*, *ut Trebinis Legatam in opus novi Theatri pecuniam ad munitionem viæ transferre concederetur, obtinere non potuit, quin rata voluntas legatoris eſſet.* In Tib.

(6) Quamvis, *ſaith* Felinus ad cap. quæ in Eccleſiarum Num. 44. extra de conſtitutionib. reſpectu beneficiorum latiſſima ſit poteſtas Papæ, tamen reſpectu bonorum ipſarum Eccleſiarum ſecus. Unde non poteſt auferre bona unius Eccleſiæ, & dare alteri, ſine cauſa, ut notat Gloſſa. *Vide Archid. & Dominic. in can.* 1. *diſt.* 10.

univerſal

universal Church within the same Limitations, to avoid falling into an Absurdity of so much Consequence, That the Church hath err'd in so important a Matter, while the Court of *Rome* hath acted uprightly.

Navarr adds farther, That in the *Clementine*, where the free Disposal of Benefices are said to belong to the Pope (7), is not meant by the Word *free* a Dispofal absolute, and without Permission or Consent of any Person whatsoever; but only a Disposal without Prejudice to any Body else. Now, if we should admit a Construction that appears so reasonable, it would make strongly against Reservations, seeing they are prejudicial to the Bishops. The Popes could no longer give Benefices to Strangers, seeing that would be prejudicial to the Natives of the Place, in Favour of whom the Requests had been made: And it favours as little any Pretensions to a Power of altering Testamentary Dispositions, by being so injurious to the Memory of the Dead.

I know very well there are others who are ready to admit all this to be true, provided there be no lawful Cause to the Contrary. But the Question is, Who is to be Judge of the Reasonableness of the Cause? For if he, whose Authority it is design'd to restrain, be the only Judge, it is the same thing to give him the absolute Power, as to limite it by any Condition, if the Law is not superior.

What *Navarr* farther adds is very remarkable, That in our Age, the Opinion of the Lawyers, who enlarge so much on the Power of the Pope in Beneficiary Matters, is extreamly countenanc'd, because it gratifies the Avarice and Ambition of those

(7) Ad quem Ecclesiarum, dignitatum aliorumq; beneficiorum Ecclesiasticorum plena & libera disposítio nescitur pertinere. *Clement. lib.* 1. *tit.* 5. *cap.* 1.

who

who are in purſuit of many Benefices, and that he had heard a Divine and a Canoniſt, both famous in their Profeſſion, publickly declare, that they would make no Scruple to accept all the Benefices in the Kingdom, if the Pope would ſo beſtow them (8): But that on the contrary, *Pius* V. in Diſcourſe one Day told him, That the Lawyers ordinarily attributed more Authority to the Pope than belong'd to him: To which *Navarr* anſwer'd, That there were ſome alſo, who would take a great deal from him of what belong'd to him; and therefore a middle Courſe was to be taken, in accommodating equitably betwixt Divine and Human Laws: Not following here in the Example of the modern Lawyers, who carry the Authority of Human Laws ſo high, that they decide in their Favour againſt the Divine (9).

However, tho' the Reſpect due to the Pope will not ſuffer me to conteſt an Opinion, which gives

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(8) They are yet more ſcrupulous than an Abbot, whom I heard ſay, That he would make no Scruple to hold 3000 Abbies or Priories, if the King would give them him: A Declaration worthy of Man, who is neither of the Religion he profeſſeth, nor of that which he quitted, in order to get Benefices: And who enjoyeth one at this time, among others, which he won of the Collator, at a Party at Picket.

(9) The Canoniſts are not contented to give the Pope an abſolute Power over all Men, but have extended it even to the Angels. *Vide Felin.* upon the Chapter *Canonum Statuta. Num.* 6. *extra de conſtitut.* and *Decius* upon the ſame Chapter, *lect.* 2. *num.* 21. where he lays down for a Rule, That the Pope alone hath more Authority than all the Angels put together, *Major eſt*, ſaith he, *authoritas Papæ, quam ſanctorum.*

To ſee on what Foundation the Pope's Pretenſion is founded, of his being Maſter and Lord of the whole Earth, there needs only to read the Commentary of *Innocent* IV. upon the *Chap.* 8. *extra de voto, & voti Redempt.* But this Pretenſion is well refuted by *Fernand Vaſquez, lib.* 1. *Controverſ. illuſtr. cap.* 21. and by *Grotius in Chap.* 3. of his *Mare Liberum.*

him

him so much Power, yet I cannot comprehend, how it can be made to consist either with Divinity or Reason. I will therefore only propound some Difficulties, which are commonly started by those, who have writ on this Subject; the Resolution of which, would put the Matter in a very clear Light.

CHAP. LII.

QUESTON I.

THE first Question is, If the Pope hath so large an Authority, who hath given it him? It is plain not Jesus Christ, seeing the Authority derived from him, extends only to spiritual Things; that is to say, to bind and loose, to remit or retain Sins (*a*). As for Eccleſiastical Goods, we have already proved, that they are possess'd by Human and not by Divine Right *. The Pope therefore hath receiv'd no such Power from GOD. And it is plain he hath receiv'd none from Princes, Testators, and Canons of the Church; because all these have committed the Administration of the Goods and Benefices of every Church to the Ec-

(*a*) Tibi dabo, *saith* Jesus Christ *to St.* Peter, Claves regni cœlorum. Et quodcunq; ligaveris super terram erit ligatum & in cœlis, *Mat.* 16 & 18. Quorum remiseritis peccata, remittuntur eis, & quorum *(my Kingdom is not temporal)* retinueritis retenta, *Joan.* 20.

By the Keys of the Kingdom of Heaven, Jesus Christ giveth St. *Peter* to understand, that he gives only a spiritual Jurisdiction, seeing his Kingdom is purely spiritual. *Regnum meum non est de hoc mundo.*

* Article 20. Quest. 1.

cleſiasticks

cleſiaſticks of the Place, and under ſuch expreſs Conditions as cannot be alter'd. Seeing therefore no other Patrons or Owners can be found but theſe, and that there is no other Right but what flows from them; it remaineth to inquire by what other Channel this Authority could be convey'd to the Pope.

QUESION II.

To this Queſtion may be added another as material, which is, that if he hath this Authority, whence comes it, that his Predeceſſors for more than 1000 Years have never exercis'd it? And that neither Councils, Fathers, Canons, nor ancient Hiſtories have ever mention'd it? They cannot aſcribe it to the different Circumſtances of Times in the Church, as requiring it more now, than in ſo many Ages paſt: For from the Year 800. until 1100. the Confuſions and Corruptions were ſo great, that ours are comparatively inconſiderable: Yet no Pope then ever concern'd himſelf in the Management of the Eſtates of other Churches, as much as they wanted Regulation: And even after the Popes had begun that Practice in ſome meaſure, none of them ever pretended to ſo abſolute a Power and Direction, before *Clement* IV. Nor even did that Pope venture to lay a direct Claim to ſuch a Power, touching it only in paſſing, and without the Appearance of any Deſign in mentioning it *. A way of ſpeaking which ſeldom uſeth to be convincing, ſeeing things that are occaſionally mention'd, and as it were by Accident, are commonly

* See *Chap.* 35. and the Decretal of Pope *Clement*, in the Notes.

expreſs'd

expreſs'd in another Manner, than if they were direct Propoſitions to be examin'd and diſcuſs'd.

Nor can any good Effect it has produc'd be urg'd in Defence of this Authority, which hath open'd ſo wide a Door to all the Abuſes. From this Quarter have come Penſions, *Commendams*, Regreſſes, Unions, Reſignations, Expectatives, Reſervations, Annates, *Quindenniums*, and other Devices, which have broke in upon us, and which none pretends to approve, or excuſe, otherwiſe than by the general Corruptions of the Times.

QUESTION III.

There remains a third Difficulty upon this Point, no leſs conſiderable, which is, That ever ſince the Popes firſt began to exerciſe this abſolute Power, the Chriſtian Princes have conſtantly complain'd, and made Oppoſition, as we have above related, which hath obliged the Popes to reſtrain the Exerciſe of it.

But it hath not been ſuch a Reſtriction, as hath amounted to a voluntary Ceſſation of that Authority, but rather a ſort of Contract or Compromiſe, uſual in the Caſe of doubtful Rights, whereby it is ſtipulated and declared with Princes, how far their Pretenſions ſhall extend, which cannot be carried to the Prejudice of the Popes their Succeſſors, if the Authority of the Pontificate were not before reſtrain'd within any Bounds. *Leo* X. when he took away the Pragmatick, eſtabliſh'd the Concordat, and ſo he ſtiles it in the Bull. Now, whoever hath a full and abſolute Authority, cannot be ſaid

to

to make any Agreement (1), but treats as a Superior with his Subjects, and by way of Conceſſions: And I lay not this Streſs alone upon the Word Concordat, but the ſame Argument holds in all the like Caſes. Not only *Leo* ſtiles it in his Bull *Concordia* (*b*), but farther explains himſelf in theſe Terms, *Illam veri contractus & obligationis inter nos, & ſedem Apoſtolicam ex una, & Franciſcum Regem ex altera partibus legitime uniti.*

If any one require here a farther Explanation, it is very obvious, The holy See is at Difference with the Kingdom of *France*: The Popes claim an abſolute Power over all Benefices, reſerving to themſelves the Diſpoſal of them, *&c.* *France* on the contrary maintains, That ſuch an Authority belongs to its own Biſhops: To put an End to this Difference, they come to a Declaration of their Rights, that ſets Bounds to their Pretenſions on both Sides. How then can theſe Pretenſions be ſaid to have any fix'd, indiſputable and natural Right?

If there be any better Anſwer or Solution to be made to theſe Difficulties, I profeſs my own Inability to find it, and muſt refer my ſelf to the Judgments of the Learn'd. I can only ſay, That if the Practice of the Church for more than 1000 Years had been yet preſerv'd, which was, That the Eſtates of every Dioceſs were managed by its own proper Miniſters, all theſe Grievances had been prevented, and the Revenues had doubtleſs been

(1) This is perhaps one of the Reaſons, why *Leo* would not ſuffer the Council of *Lateran* to call it the Concordat in the Decree, where it ſpeaks of the Suppreſſion of the Pragmatick, tho' the one hath as much relation to the other, as the *Achat* is to the *Vente*.

(*b*) Concordiam cum Franciſco inviolabiliter obſervari deſideramus.

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more usefully and faithfully applied than they are at this Day, if we were capable of profiting by any Examples.

QUESTION IV.

Having in the three first Questions treated of the immoveable Estates of the Church, we come now to the fourth, which concerns the Fruits or Revenues arising from those Estates.

All the Fathers who have writ before the Division was made of the Goods of the Church into four Parts, have all agreed, that they belong'd to the Poor; and that the Ecclesiastick Minister had no other Right in them, but to manage, direct, and dispense according to those Necessities; treating as Robbers, and sacrilegious Persons those Ministers, who applied those Estates to any other Purposes than the Design of their Institution. Yet all the Ecclesiasticks had not the Management of the Church Estates, tho' they were maintain'd out of them, as well as the Widows, the Poor, and other miserable Objects: But this Care, after the Example left by the Apostles, was committed to the Deacons, Sub-deacons, and other Oeconomists (1), who gave Account

(1) The Church being become rich in Possessions, and the Deacons and Bishops distracted with the Care of them, the Council of *Calcedon* order'd that the Bishops should appoint a Steward to look after the Revenues of the Churches.

Quoniam, *saith the Council, Can.* 26. in nonullis Ecclesiis Episcopi absq; Oeconomis tractant res Ecclesiasticas, placuit omnem Ecclesiam Episcopum habentem ex proprio Clero Oeconomum quoq; habere, qui ex Episcopi sui sententia res Ecclesiasticas

Account to the Bishop *, and in some Places to the Presbitery (2).

After that Benefices were instituted, it seems probable that the Bishop, Priests, and other Clergy dispos'd as freely of the Revenues of their Benefices as of their own Estates, and as of the Share which properly belong'd to them. Yet all Writers seem to agree, that the Priest ought not to take any more of the Revenue of his Benefice, than what was strictly necessary, and that is obliged to employ the rest in Works of Charity; and certainly with great Reason, for the Division which was made of the Revenues could not change their Nature: For if an Estate which hath a Duty or Charge annex'd to it, comes to be divided, both the Parts are subject to the same Obligation.

Among those Fathers who have writ since the Division, St. *Gregory* who liv'd something more than 100 Years after, and St. *Bernard* who liv'd about 800 Years after him, inveigh loudly against those who make an ill Use of the Revenues of Benefices, as Usurpers of the Publick Goods, and

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clesiasticas dispenset, ut nec sine testibus sit Ecclesiæ administratio, atq; adeo res ejus dissipentur, & probrum ac dedecus sacerdotio inuratur: Si autem hoc non fecerit eum divinis etiam Canonibus subjici. *Vide Can.* 11. *Concil. Nicæni* 2.

The Stewards were call'd *Vice-Domini*, as may be seen by the Canons *Volumus* 2. & *Diamonum* 3. *dist.* 89. which are taken from St. *Gregory*. The *Vice-Domini* of the Bishops, saith the *Perroniana*, were certain Lords, who were Vicars of the Bishops in their Temporalities, but Lords of the Soil.

* Vide Momocan. Photii, tit. 10. cap. 1. & ibi Balzamon.

(2) They so call'd the College of Priests and Deacons. All Affairs laid before this College, who examin'd and reported them to the General Assembly of the Faithful.

Murderers of the Poor, whom they ought to feed (*a*).

This hath been the Language of all the Doctors and Writers on this Subject, until the Year 1250. when they began to refine upon it with more Subtlety: And as what the ancient Writers affirm'd was admitted, That every Clergyman sinned, who employ'd the Overplus of what was necessary for him, to ill Purposes, the Question was now stated, Whether those Beneficiaries who did not employ the Overplus to the Uses he ought, did not offend more than he who spends his own Estate to ill Purposes? Or, Whether they be not oblig'd to Restitution as much as if they had spent another Man's Estate?

If they really be the Proprietors of the Fruits of their Benefices, or, to speak in the Terms of the Civilians, *Usufructuarii*, they sin indeed in administring them ill, but they do Injury to none, and consequently are bound to no Restitution, since they have made an ill use of nothing but their own. But if they are only the Dispensers, with a Power of employing so much only to their own Use, as is necessary for them, and no more, which the Law calls *Usuarii* (*b*), they are obliged to make Restitu-

(*a*) Cum nos, *saith St.* Gregory, lib. 3. *of his Pastoral*, Admonit. 22. necessaria indigentibus ministramus, sua illis reddimus, justitiæque potius debitum quam miserecordiæ opus implemus.

And to the same Purpose saith *Peter Cantor*, That the Charities given by Beneficiaries are not properly given to the Poor, but to Jesus Christ, whose Patrimony they have the Care of, as Dispensers and Executors of his Will; which if they do not faithfully perform, they are no better than so many Robbers.

(*b*) Cum usuarii tantum, non usufructuarii, sint, omnes Ecclesiæ proventus solo nudo usu excepto pauperibus, qui Ecclesiæ bonorum vero domini sunt dare vel potius reddere tenentur. *The President* du Ferrier *in one of his Harangues to the Council of* Trent.

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tion to the Value of what they had diſſipated: And which is more, whoever receives any Gift by the Will or Donation of ſuch as have no Right to give, he alſo is oblig'd to make Reſtitution.

A real Scruple of Conſcience firſt gave Riſe to theſe Doubts, which after having been canvas'd for 350 Years (3) remain undecided at this Day, with an equal Number of Authors on both ſides to ſupport it: And it hath been lately reviv'd with much Heat and Wrangling betwixt *Martin Navarr*, a celebrated Canoniſt and Caſuiſt, and *Francis Sarmiento* *: *Navarr* maintaining, that Beneficiaries are not the Proprietors, but meerly the Diſpenſers of thoſe Revenues; ſo that they who ſin are obliged to make Reſtitution.

Cardinal *Cajetan* holds a middle Opinion, ſaying, That Beneficiaries who have no more than what is ſtrictly their own, or but a little exceeding, are truly Proprietors of their Benefices, becauſe they hold no more than what is the Share that is due to them: But this cannot be ſaid of the rich Biſhops and Abbots, whoſe Revenues conſiſting both of the Church's (4) Share and the Poor's, oblige the Beneficiaries in Juſtice to beſtow largely in Alms, and other pious Works, under Pain of Reſtitution, both in thoſe who lay it out otherwiſe, and in thoſe who

(3) To reckon from the Year 1250. when, he ſaith, this Queſtion began to be ſet on Foot; which points at the time when *Fra. Paolo* wrote this Treatiſe, *viz.* in the Beginning of this Age.

* In his Treatiſe *de Redditibus Eccleſiaſticis* the Arguments of *Navarr* and *Sarmiento* are related by *Garcias*, in his Treatiſe *de Beneficiis*, *part.* 2. *cap.* 1.

(4) That is to ſay, of what belongs to the Fabrick, which they are entruſted to look after.

receive it (*c*). Nay he carries it so far, as to say, That whoever receiveth from the Pope any Preferments, or Estates belonging to the Church, in or-

(*c*) Redditus Episcopales aut sunt tenues, ita quod sufficiant pro subsidio Episcopi; aut sunt mediocres, ita quod sufficiunt, & parum abundant; aut sunt abundantes notabiliter supra id quod necessarium est ad sustentationem Episcopi. Et si primo aut secundo modo se habent, cum constet, quod principaliter ordinantur ad Episcopi sustentationem, idem videtur de redditibus istis judicium, quod de præbendis Clericorum [*observe that he hath said a little before, that the Revenue of the Bishop is as it were his Prebend,* Constat autem quod reditus Episcopi est sicut Præbenda illius] ita quod quia quod parum superabundat, pro nihilo a jure computatur, propterea non obligantur tales Episcopi ad hujusmodi distributionem (scilicet in pauperes, & fabricam) si autem redditus sunt pingues & abundantes, ita ut sapientis animo cadere non possit, quod sint Episcopo assignati pro ejus sustentatione, tunc tenetur Episcopus duas quartas ad minus distribuere in pauperes, & ecclesiæ fabricam, seu supellectilem, & cetera. Et ratio est, quia ex hoc, quod clericihabent seorsum suam portionem, non est subtracta a jure pauperibus portio illis debita ex jure; & similiter non est fabricæ subtracta a jure portio illi ex jure debita; sed bona Episcopalia remanent affecta tali juris dispositione antiqua & sancta, ita quod quemadmodum, quando erant communia Ecclesiastica bona his quatuor scilicet Episcopo, Clero, Pauperibus, & Fabricæ commissa erant Episcopo cum vinculo, & debito talis distributionis, ita excluso uno membro, scilicet Clero tali communitate, quia jam habet proprias præbendas loco suæ portionis, remanent bona Episcopalia communia reliquis tribus, ita quod pauperibus remaneat debita quarta portio. *Com. 2dæ. 2dæ. quæst.* 185. *art.* 7. *in resp. ad quæst.* 1.

Si autem, *saith he, in the Answer to the second Question,* redditus Episcopi tantus est, ut rationabiliter appareat quod non quasi præbenda sibi respondeat, sed quia pater est pauperum, igitur tanta bona suæ sunt fidei commissa ut distribuenda —— ita quod Episcopus talis malè dispensans, & illi ad quos perveniunt, tenentur ad restitutionem omnium illorum, quæ pauperibus vel ecclesiæ debentur. Rationabile autem videtur, quod si abundantes redditus ex ecclesiasticis decimis, aut possessionibus constant, commissa sint Episcopis, ut patribus pauperum Episcopo creditæ sunt. Ideo enim Episcopis datæ sunt, quia occulta fide perspiciebatur eos esse partes pauperum.

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der to enrich and agrandize himſelf in the World, are alſo obliged to make Reſtitution: All Donations of the Goods of the Church, which have not a Motive of Piety or Charity, being no lawful Diſtribution, but an Injuſtice and a Diſſipation (*d*).

Without refining and ſubtilizing too much on this Subject, all the Difficulties that can ariſe upon it, methinks may eaſily be reſolv'd. And firſt as to the Revenues which are founded upon Wills, or ſome other original Right or Inſtitution, and dedicated to ſome pious Uſe, for any Man to convert them to his own, or to any other ſecular Uſe, is, in my Opinion, an Abuſe; which may plainly be call'd an Invaſion of another Man's Property.

And if a Beneficiary ſhould fail in performing any Truſt in the Manner committed to him, either in miſapplying the Revenues to himſelf or others, I cannot comprehend how he would be able, under any Bull of the Popes, or any other Pretence, to juſtify himſelf, unleſs he could prove himſelf not to be exactly in the ſame Situation with an Executor, who takes to his own Uſe what the Teſtator left

(*d*) Nec putes, *ſaith he*, propterea quod Papa habet plenitudinem poteſtatis eccleſiaſticæ, ob hoc poſſit de bonis Eccleſiæ diſponere; quoniam plenitudo poteſtatis Eccleſiaſticæ intelligitur in ſpiritualibus tantum —— Unde ita tenentur ad reſtitutionem, qui a Papa bona Eccleſiæ pro libito Papæ habuerunt, ut ditentur, exaltentur, & magnificentur. [This gives a deep Wound to the *Nepotiſm*, and condemns the Doctrine of the Canoniſts, who held, that the Pope can give Benefices *Ad Nutum*, and that in this Caſe his Will ſtands in place of Reaſon.] *He concludes*, omnis namq; donatio eccleſiaſticæ rei, pietate, vel neceſſitate, vacua, non diſtributio, ſed diſſipatio eſt. *Comment. 2da. 2dæ. ad artic. 8. quæſt. 43. 12. q. 2. Archid. poſt Hugonem in Can. non liceat Papæ, ſaith, that* Papa peccat mortaliter, ſi vult res eccleſiaſticas conſumere in turpes uſus, vel dare conſanguineis, ut eos divites præ aliis faciat, vel ut ipſi conſtruant palatia.

to others: And this is a Truth, which seems to carry such a self Conviction along with it, as I persuade my self no Man can doubt, who is not willing to cheat himself.

On the other side, common Justice requireth, that he whose Work it is, should pay the Workmen their Wages; and it cannot be denied, but that the Choristers, the Organist, and other Officers of the Churches are Judges of the Prices of their own Service.

Neither is there any thing unreasonable in saying, That the Priests, and the other Clergy ought to be paid their Salaries for the Services they perform in the Church; and that they have the only Right to such Revenues. And when a Benefice is instituted upon Conditions, which subject to such and such particular Services, such as are many Canonries, Prebendaries, Theologales, Mansionaries (*e*), and other Benefices of that Kind, there is no Absurdity in saying, that these are the Considerations for such Services.

The Institution of Benefices is so ancient, that the Memory of their Original is lost, as well as whether they were held at first by the Tenures of any Services to the Church. But this a Man of scrupulous Conscience can no longer doubt, when he compares the Revenues with the Service he rendereth to the Church; in putting one of these in the Scales against the other, he will easily be convinced that the Benefice is the Salary for his Service.

(*e*) Mansionarius, *saith* Onuperius *in his Explanation of Ecclesiastical Names*, dictus est Custos, & Conservator ædium ecclesiasticarum, templorum, & altarium. Item familiaris, & domesticus a mansione. Hodie in multis Ecclesiis extant, curamq; psalmodiæ & altarium habent. *Thus the* Sacristary *comes nearest to the* Mansionary.

But

But where the Revenues much exceed the Portion that is neceſſary for the Incumbent, who can be ſo weak to believe, that Revenues of that Size were ever intended to be left him to diſpoſe as he pleaſed, and not to know, that there is a Duty or Charge annex'd to the Benefice in its very Inſtitution, conſidering the little Probability that ſo large Revenues ſhould be deſign'd for one Man (*f*)?

Theſe controverted Points among the Caſuiſts, ſo full of Difficulties when they are propoſed in Generals, are eaſy to reſolve when they come to particular Caſes: And, Conſcience rightly conſulted, and in Perſons who have not ſtifled it with a wilful Ignorance (5), will eaſily clear theſe Doubts (*g*). For GOD leaves not the Mind of thoſe to wander under any Uncertainties of Importance, who tread in the Paths deſcrib'd in his Commandments (*h*).

(*f*) Iniqua, *ſaith* Cajetan, eſſet lex decimarum in novo teſtamento, ſi ultra honorabile ſtipendium miniſtrorum Dei, tanta rerum affluentia uni deputaretur, cum damno totius populi, niſi ut patri pauperum. *Comment.* 2*dæ.* 2*dæ.* *artic* 7. *queſt.* 185. *in reſp. ad queſt.* 2.

(5) Veritatem Dei in injuſtitia detinent, *Rom.* 1.

(*g*) Intellectus bonus omnibus facientibus eum, *Pſal.* 110.

(*h*) Deus enim illis manifeſtavit, *Rom.* 1.

CHAP. LIII.

As for any new Acquisitions, every thinking Man, I believe, is sensible that they draw towards an End; or at least, that they are like to encrease but by very slow Degrees. The Clergy, the Monks, and Military Orders have lost their Friends. The Mendicants, who have reap'd so little Advantage hitherto from the Permission granted to them by the Council of *Trent* to acquire Estates, have no Prospect of much more from it for the future: In places indeed where they have already acquired any thing, and have not lost their Interest, they have most Reason to hope for more Advantages, tho' with no Probability of happening in any considerable Degree.

The others, who would not be comprehended in this Privilege, I mean the Capuchines, preserve their Reputation because of their Poverty: And if they should suffer the least Change in their Institution, they would acquire no immoveable Estates by it, but would lose the Alms they now receive.

It seems therefore as if here an absolute Period were put to all future Acquisitions and Improvements, and that no more Advances could be made in this gainful Trade: For whoever would go about to institute a new Order, with a Power of acquiring Estates, this Order would certainly find no Credit in the World: And if a Profession of Poverty were Part of the Institution, while that lasted, there could be no acquiring, nor Credit if they broke it.

Yet

Yet our Age can boaſt of a Production truly ſingular and original, and inferior to nothing of this Kind, which hath appear'd in any Age. This is the Inſtitution of the Jeſuits, who by a Mixture of Povery and Abundance, conciliate to themſelves the Eſteem and Affection of the World, rejecting with one Hand, what they receive and poſſeſs, as a Company and Society, with the other. For tho' their profeſs'd Houſes (1) are not capable, by their Inſtitution, of poſſeſſing immoveable Eſtates, yet their Colleges are capable of acquiring and poſſeſſing (2).

They ſay, and certainly with Reaſon, that no Government ſimple and unmix'd is perfect, but that Mixtures are found to have their Conveniencies, on all Occaſions: That the State of Evangelick Poverty embrac'd by the Mendicants hath this Defect, that it is only adapted to ſuch as are already well advanced in the Way to Godlineſs, whoſe Number therefore cannot be very great. But for their parts, their Deſigns in receiving Youth into their Colleges is, to inſtruct, and by an Acquiſition of all Vertues, to fit it for a Life of Evangelick Poverty; ſo that Poverty is indeed their Deſign and eſſential End, but they grow rich by Accident.

But the Facts we ſee are yet a ſtronger Degree of Evidence, than the Words we hear. They write themſelves, that they have at preſent 21 profeſs'd Houſes, and 293 Colleges: From this Diſproportion every Man may conclude which is the eſſential Part of their Inſtitution, and which their accidental. Upon the whole it is not to be denied, that

(1) In which the Society eſſentially conſiſts, as the General *Laines* ſaid to the Council.

(2) As being founded to the End to entertain great Numbers of Students.

they

they have acquir'd vaſt Riches, and that they are in the high Road to encreaſe them (3).

As all the Temporalities which the Church enjoyeth aroſe from Alms and Oblations, ſo in the Old Teſtament the Fabrick of the Sanctuary was ſupported the ſame Way (*a*). But when the Inſpectors of this Work ſaw the People continue their Oblations, tho' all was given already that was needful, they ſaid to *Moſes*, *The People give more than is needful*; and *Moſes* ſtraight publiſh'd an Order, That no more ſhould be offer'd for the uſe of the Sanctuary, becauſe more than ſufficient had been offer'd already (*b*). By which it is manifeſt, That GOD would have nothing ſuperfluous and ſuperabounding in his Temple. And if it were his declared Pleaſure in the Old Teſtament, which regarded only the Things of this World, that all the Goods of the Church ſhould not go to her Miniſters, it is leſs declared in the New.

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(3) We may obſerve here, that *Fra. Paolo* had a true Hatred for the Jeſuits, as a good *Venetian* and Republican; for their Inſtitution, which is wholly Monarchical, ſeems incompatible with the Maxims of the *Venetian* Ariſtocracy. And it was one of the ſtrongeſt Reaſons which the Doge *Leonard Donato* urged to the Cardinal *de Joyeuſe*, who ſollicited their Re-eſtabliſhment with great Warmth. (*an.* 1607.)

To which add, that this Society hath more Wit and Penetration than a Government deſireth, that is ſo apt to take Umbrage, and where for Reaſons of State, the Prieſts, Monks, and the People are overrun with Libertinage and Ignorance.

(*a*) Obtulerunt mente promptiſſima atq; devota primitias Domino ad faciendum opus tabernaculi teſtimonii; quicquod ad cultum neceſſarium erat, viri cum muliebribus præbuerunt, *Exod.* 35.

(*b*) Quot die manè vota populus offerebat: unde Artifices venire compulſi dixerunt Moyſi, plus offert populus quam neceſſarium eſt: Juſſit ergo Moyſes præconis voce cantari: Nec vir nec mulier quicquam offerat ultra in opere ſanctuarii —— eo quod oblata ſufficerent, & ſuperabundarent, *Exod.* 36.

But

But where will their Acquiſitions end? or what Bounds will be ſet to them? Who among them will ſay, *The People have given enough?* The Miniſters of the Temple, who made up the 13th Part of the People, were not capable of receiving or enjoying any more than the Tenths (*c*): Ours, who are ſcarce the hundredth Part of the People, poſſeſs at this Time perhaps more than the Fourth.

Is it impoſſible there could be any Inconvenience in Churchmen's acquiring *ad infinitum*, and if all the reſt of the World were reduced to hold every thing by Farm? Among Chriſtians, human Laws have no where ſet Bounds to any Man's Eſtate, becauſe he who encreaſeth it to Day, may alienate to Morrow. But there is in this Caſe a Circumſtance perhaps without Example, That an Order of Men perpetual, and which never dies, ſhould be always capable of acquiring, and never of alienating (4). In the Old Teſtament the Tenths were given to the *Levites*, becauſe it was the LORD's Part (*d*),

(*c*) Nil aliud poſſidebant, decimarum oblatione contenti, *Num.* 18. Oblationes Iſrael comedent, & nil aliud accipient de poſſeſſione fratrum ſuorum, *Deut.* 18.

(4) The Clergy being a Body which never dies, which daily receiveth Increaſe by new Donations, and can part with nothing again, a Writer of good Repute illuſtrates the Matter with ſaying, That as the Thighs and Arms grow lean when the Belly grows too big, ſo fares it with a Republick, whoſe Nobility and People being the Legs and Arms, grow lean, and pine in Proportion as the Clergy encreaſe. *Reflections ſur le traité de la Politique de France.*

(*d*) Accipies, *ſaith God to* Aaron, de his quæ ſanctificantur & oblata ſunt Domino —— omnis oblatio, & quicquid redditur mihi, & cedit in ſancta ſanctorum, tuum erit, & filiorum tuorum. *And ſome Lines after,* Omnes primitias ſanctuarii, quas offerunt filii Iſrael Domino, tibi dedi & filiis tuis jure perpetuo, *Num.* 18.

and

and therefore they were forbid to take any more (e): A Rule which they, who enjoy the Privileges of the *Levites*, ought to obſerve, in taking upon them all the Conditions requir'd of them, and not only ſuch as turn to their particular Advantage (5).

(e) In terra eorum nihil poſſidebitis, nec habebitis partem inter eos. *And God gives the Reaſon to* Aaron. Ego pars, & hæreditas tua. *Becauſe, ſaith he, I am my ſelf thy Part and thy Inheritance.* Ibid.

Non habebunt Levitæ partem & hæreditatem cum reliquo Iſrael. —— Dominus enim ipſe eſt hæreditas eorum, *Deut.* 18.

(5) The Senſe of the Author is, that if the Eccleſiaſticks will urge the Example of the *Levites*, who receiv'd the Tenths of the People of *Iſrael*, they ought like them alſo to renounce every thing elſe, and conſequently all ſort of Acquiſitions: It not being reaſonable to enjoy a Priviledge without obſerving the Conditions impoſed by him who granted it.

CHAP. LIV.

HAving given a large Account how the Church hath acquired her Poſſeſſions, and how they have been employ'd, it remains that we examine what became of the Fruits and Revenues which happen'd to be remaining and undiſpos'd at the Deaths of the Beneficiaries; how they were diſpos'd, and whether the dying Perſon might diſpoſe by Will; or if inteſtate, to whom theſe Profits accrued.

While the Goods of the Church were in Common, and under one general Adminiſtration, it is certain that all that was found in the Hands of the Miniſter, remain'd incorporated in the common Stock, and was manag'd in the ſame Method by his Succeſſor.

But

But when the Benefices were inſtituted, it was order'd at the ſame time by the Canons, That whatever Eſtate the Beneficiary ſhould leave at his Death, ſhould go to the Church: By the Church, if it were Collegiate, and had a common Table, was underſtood the whole Body of the Clergy: But if the Beneficiary had no Collegues or Brother-profeſſors, then by the Name of the Church the Succeſſor was intended, who was oblig'd to adminiſter theſe remaining Fruits in the ſame Methods as his Predeceſſor had been: And this Uſage continued until the Year 1300.

But as it often happen'd, that Beneficiaries had other Eſtates, to which they were either born, or which they had required by their own Induſtry, it was ſaid, that they might diſpoſe of theſe as abſolute Proprietors by Will; but not of the Profits of the Benefice, in caſe of Death (*a*). Whence it came, that the Clergy who had ſmall Benefices, and where the Revenue exceeded not the neceſſary Expence, diſpoſed by Will all their own Eſtate, and alſo what they had ſaved by their own Parcimony out of their Benefices, reckoning this as an acquired Eſtate. And there is a Cuſtom, which is the Conſequence of this, obſerv'd ſince in many Chriſtian Kingdoms, that the ſmall Beneficiaries have a Power of diſpoſing by Will, even the Fruits of their Benefices; and that where there was no Will, the next Friends inherit to the Profits, as in the

(*a*) Epiſcopi de rebus propriis vel acquiſitis, vel quicquid de proprio habent, hæredibus ſuis, ſi voluerint, derelinquant; quicquid vero de proviſione ſuæ eccleſiæ fuerit, ſive de agris, ſive de fructibus, ſive de oblationibus omnia in jure Eccleſiæ reſervare cenſuimus. *Can.* 19. 12. *q.* 1. *an.* 572. *vide Can.* 20. *Cauſa & q. cit. & cap.* 1. *extra de Teſtam. Blazamon. & Zonaram aa Can.* 22. *Conc. Chalcedon.*

Caſe

Case of an Intestate, and as if it were their own Patrimony.

But whatever the Bishops left at their Deaths, belong'd to the Church (1) by the ancient Canons. Yet after this, in some Countries the Bishops obtain'd a Right of passing by Will the Ecclesiastical Fruits: Insomuch that about the Year 1300. there were three different Customs in Force in different Countries. The *first*, where no Clergyman could dispose of the Fruits remaining of his Benefice: The *second*, where these Fruits were under the same Laws and Direction as their own Patrimonies: The *third*, where the inferiour Clergy could dispose, but not the Bishops; to which last whatever was due went to the Church.

In succeeding Times, when the Occasions for Money grew more frequent and urgent, the Popes sent their Officers into all those Kingdomes where the Church had a Custom of inheriting to the Goods of deceas'd Beneficiaries, to apply them all to the Apostolick Chamber, before a Successor was appointed; which was easily put in Execution, no Man being concern'd in Interest to oppose it, during a Vacancy, and the Successor satisfying himself, as with a thing done before his Time.

(1) Or rather to the Successor: For the Can. 22. of the Council of *Chalcedon*, forbids the Clergy to take Possession of the Goods of the deceas'd Bishop. By the Can. *non liceat* 12. *q.* 2. The Metropolitan himself cannot dispose of any.

Non liceat alicui Metropolitano mortuo Episcopo, qui sub eo est, aut res ejus, aut Ecclesiæ suæ ferre; sed sint sub custodia Cleri Ecclesiæ defuncti Episcopi, usq; dum alius ordinetur Episcopus. Si vero Clerici in Ecclesia non fuerint, tunc Metropolitanus illibata omnia Episcopo, qui ibi ordinabitur, reddat. *See* Balzamon *and* Zonarus *upon these two Canons, and Can.* 48. *Caus.* 12. *q.* 2.

They

They then began to appoint such Ministers throughout all Places where they had Authority, who were call'd Collectors; and the Estates which the Beneficiaries dy'd possess'd of, had the Name of *Spolia* given them.

Tho' these Seizures were made with as little Noise as was possible, yet there being no Law or Ordinance to justify them, they could never be put in Execution without some Murmurs of the Heirs of the Deceas'd, as well as of others; for which the rigorous Exactations of the Collectors and Subcollectors gave Occasion; who, under the Title of *Spolia* laid their Hands on the very Ornaments of the Church, and set up the most vexatious Inquisitions into Titles, declaring which Estate was acquired by the Industry of the Deceas'd, and which was Patrimonial, straining every Point, and improving every Doubt, that might tend to prove, that every thing they found was the Fruits of Benefices. And when at any time any Question remain'd concerning the Nature and Quality of these Goods, the Apostolick Chamber, to which it was referr'd, stood ready with Censures and Excommunications to discharge upon those who made Resistance.

In *France* the Custom hath obtain'd, that the *Spolia* of the Bishops and Abbots should go to the Popes: But in the Year 1385. *Charles* VI. made an Ordinance, that their Heirs should succeed to the *Spolia*, as well as to the Patrimonial Estates (2).

Yet

(2) This Ordinance is to be seen at length, *part.* 3. *Stil. Parlam. tit.* 27. But because of its great Length, it will be sufficient to extract only so much as relates to the insuportable Extorsions and Vexations mentioned by Bather *Paul.*

Quod importabile & irrationabile existit, licet de jure, usu & consuetudine, & communi observantia notorie observatis, Episcopis.

Yet in several Countries the Right or Pretensions to the *Spolia* continued to our Times; wherein the Complaints against the Exactions of the Collectors grew so loud, that some had the Courage to oppose them openly, and to deny that the *Spolia* of the deceas'd Beneficiaries belong'd to the Apostolick Chamber.

This produc'd a Bull of Pope *Paul* III. in the Year 1541. which sets forth, "That some Persons "too busy and inquisitive (3), in order to invade "and usurp the Rights of the Apostolick Cham- "ber, had rais'd a Doubt, Whether the Goods of "Prelates, and other Ecclesiasticks, which are "call'd *Spolia*, belong'd to this Chamber, because "there was no Apostolick Constitution for that "Purpose, tho' it is evident from the Instances of "Collectors sent by his Predecessors into so many "several Parts to exact and recover them, that it

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Episcopis regni nostri testari liceat, & in suis testamentis executores ordinare: Qui prædicti Executores, aut saltem ipsorum Episcoporum heredes ad faciendum reparationes ædificiorum Episcopalium, dum casus eveniunt, per Judices, & officiarios nostros compelluntur, & compelli consueverunt. Et cum ita fiat, ædificia & possessiones dictorum ædificiorum Episcopalium in statu non deformi permanebunt omni ruina carentes. At nunc, cum Episcopum in regno nostro ab hac luce migrare contingit, Collectores aut Sub-collectores summi Pontificis autoritate, bona mobilia, immobilia, ex decessu talium Episcoporum relicta, etiam illa, quæ per suam industriam quæsiverunt, quæ amplius ipsorum Episcoporum, neq; cententur, sed ad suos heredes, aut eorum Executores spectant, capiunt ——— Notum igitur facimus, &c.

(3) Is not this a very justifiable Curiosity, when it relates to such excessive Claims and pretentions.

The Court of *Rome* hath exacted so much, that at last the World hath been provok'd to ask by what Right: And the Attempts of the Popes have often obliged the Princes to employ their Arms, and the Learned their Pens, to justify those Arms.

"hath

" hath always been the Intention of the Popes to " reserve and appropriate them to the Chamber. " And therefore he willed and declared, That the " *Spolia* of the Clergymen deceas'd, or which should " die hereafter, in all Kingdoms and Estates what- " soever, on this side, or beyond the Mountains or " Seas, even in Parts where no Collectors had ever " yet been appointed, should belong to the Apostol- " lick Chamber (4).

(4) Cum a nonnullis nimium curiosis, qui jura Cameræ Apostolicæ usurpare, ac Cameram præfatam illis defraudere vellent, in dubium redigatur, an res & bona, spolia nuncupata, prælatorum, ceterarumq; personarum Ecclesiasticarum, secularium & regularium, tempore obitus ipsorum remanentia, ex eo, quod Rom. Pontifici & Cameræ præfatæ reservata fore, aliqua generali apostolica constitutione forsan non caveatur, ad Cameram prædictam jure legitimo spectare, & pertinere debeant.

Nos, etsi satis evident er constet & appareat, prædecessorum nostrorum Rom. Pontificum, & nostram indubiam intentionem, & voluntatem semper fuisse, ut spolia hujusmodi ad dictam Cameram spectarent & pertinerent, & quod pro eadem Camera exigerentur, & recuperarentur, cum prædecessores præfati diversos dictorum spoliorum, ut ad Cameram spectantium, & pertinentium, collectores, & exactores in variis provinciis & locis deputaverint & constituerint, & nos deputaverimus, constituerimus: Ac semper de illis dicti prædecessores perpleraſq; literas, tanquam de rebus ad Cameram pertinentibus donando vel transcendo, disposuerint, & nos disposuerimus —— dubium hujusmodi enucleare, ac in præmissis opportunè provideri volente motu proprio, & ex certa nostra scientia, ac de apostolicæ potestatis plenitudine declaramus res & bona hujusmodi, spolia nuncupata, in quibusvis regnis ac dominiis, tam citra, quam ultra montes & maria consistentia, quæ pro tempore post obitus Prælatorum, & personarum quomodolibet qualificatarum, etiam Cardinalatus honore fulgentium, qui vel nullo condito testamento, vel absq; sufficienti facultate condito, decesserunt, decedent, remanserunt, remanent, & remanebunt, &c. spectasse & spectare, illaq; tanquam ad Cameram ipsam spectantia perpetuo colligi & recuperari potuisse & posse, atq; debere. 7 *Decret. lib.* 3. *tit.* 3. *cap.* 1.

Thus the Over-zeal of some Persons, in attempting to set a few Provinces at Liberty from such a Grievance, hath brought the Imposition to be challenged over the whole Universe; tho' it has not hitherto been drawn into Practice any further than in Places where it had been already admitted. But this hath been all along the constant Course of this Affair, the Popes have issued their Bulls, but the Noise they make in the World, and the Alarm Men take at the Novelty, make the Execution be suspended for some Time, and until a more favourable Opportunity: When that happens, they fall to execute the Bulls with the same Rigour, Exactness of Censures, and other Severities, as if the Bulls had taken Effect at the Time of their Publication, and had only been discontinued through the Malignity of some ill affected Persons.

Until the Year 1560. the *Spolia* comprehended only what remain'd of the Ecclesiastical Revenues at the Death of the Clerk or Incumbent. This Year Pope *Pius* IV. publish'd a Bull, in which he declar'd, "That under the Name of *Spolia*, which, "throughout all Countries and Dominions, throughout the World, belong to the Apostolick Chamber, were comprehended all whatsoever any "Clerk or Ecclesiastick had acquir'd, or should "acquire, by any Ways or Dealing, or Commerce "unlawful, or in any other Manner contrary to "the Canons (s)". Which is very comprehensive, since they understand all sort of Merchandise to be unlawful.

Again

(s) Cum a nonnullis vertatur in dubium, an res, & bona per Clericos, etiam in sacris ordinibus constitutas, ex negotiatione illicita, aut alias contra sacros Canones acquisita, uti spolia, vel alia ad Cameram præfatam jure legitimo spectare

Again, by the Canons the Clergy are prohibited many Sorts of Plays, and little Trades and Ways of Livelihood and Industry; by which they make great Advantages, and from whence the Chamber will draw great Revenues, if the Bulls concerning the *Spolia* should ever gain Admittance in one half of *Italy*, where they have never yet been put in Execution, or in *Germany*, *France*, and other Kingdoms and States, where they have never yet been admitted. Besides that in the Kingdoms of *Castile*, by a Law of the Emperor *Charles* V. and *Philip* II. all the Clergy of those Kingdoms were exempted from this Imposition.

The Canonists found the Right to the *Spolia* chiefly upon this Assertion, That the Pope is the real Proprietor of all Ecclesiastical Revenues; but those who speak with most Modesty say, He is only Administrator of them.

By which Doctrine the Parties concern'd have slid into a Practice of much Convenience, which is, That if any Man have wrongfully possess'd himself of any Benefice, or committed any other Rob-

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& pertinere debeant. Nos omnem desuper hæsitationis materiam submovere, & malitiis eorum, qui jura dictæ Cameræ usurpare satagunt, obviare, aliaq; in præmissis opportune providere volentes, motu proprio, & ex certa nostra scientia, ac de apostolicæ potestatis plenitudine, decernimus & declaramus, omnia & singula, res & bona, cujuscunq; qualitatis & quantitatis existentia, ac in quibusvis regionibus, & regnis, ac dominiis, tam citra quam ultra montes & maria consistentia, per quosvis Clericos tam Seculares, quam Regulares, &c. ex negotiatione illicita, aut alias, contra sacros canones quomodolibet acquisita, ad eamdem Cameram & non alios, etiam in quibusvis Cathedralibus etiam Metropolitanis, & Collegiatis, ac aliis Ecclesiis, Monasteriis, Hospitalibus, Militiis &c. successores spectare, ac sub nomine spoliorum venire, illaq; uti spolia, ad Cameram pertinentia, perpetuo colligi potuisse, posse, ac debere. *Nov.* 1562. *Ibid. cap. ultim.*

bery

bery on the Church, he came to an Agreement with the Apostolick Chamber to give such a Part, by which he not only secur'd the rest, but a safe Conscience to himself in the Enjoyment of it. Upon punctual Performance of which Agreement, it is universally affirm'd, he hath a general Releasé and Absolution for all the rest, and may lawfully retain and enjoy it as his own; seeing the Pope is either absolute Proprietor, or universal Administrator. And this is call'd, Compounding with the Apostolick Chamber, whose Power is thus happily enlarg'd, that those whose Consciences are either self-convicted, or have any Qualm about them of enjoying any thing that is not their own, but know not where to make Restitution, may have Recourse to this Composition in Relief of all their Scruples.

FINIS.

Till ab.t ye Yr. 200 The Ministers of ye Church subsisted on ye Oblations of the faithfull, living together in common & distributing to & maintaining thereout the poor. p. 6

From that time ye Churches be coming rich by the zeal of the people in their donations. The Clergy not content with a subsistence in common, began to live in separate houses alone & to have each their allowance paid at stated periods & the Bishops ceasing to make the usual distributions to the poor began to reserve them to their own use. p. 8

Hitherto however the Church had acquired no real or immoveable [illegible]. But during the confusions in ye Empire ye Church having gained some such, They were in 301 all confiscated by ye Emperors Diocesian & Maximian; But in soon after restored by Maxentius & Constantine & the Church made capable of receiving real Estates by Will or donation. p. 10 with exemption to the Clergy from all personal Service.

After the Eastern & Western Empires were divided The Governm.t of the Churches took another form. The Eastern Church kept still the established usage of living in common. But in the Western the Bishops began to use the Revenues as their own & to assume an absolute power in their disposition. There was an Order therefore made ab.t the Yr. 470. That a Division should be made into 4 parts, The first for the Bishop The 2.d for the rest of the Clergy The 3.d for the fabric of ye Church & the 4.th for the poor. p. 17

Institution of Monts ab.t ye Year 500. p. 21 They were at first Laymen

Ministers & Bishops were originally chosen by ye people
Abt. ye 500 princes interposed & required their Assent & confirmn
and so it continued even in Italy untill ye 750. But in France
& beyond ye Mountains the princes were still more absolute & took
to themselves the collation of all Bishoprichs: & to exclude the
people from ye choice of priests & other ecclesiastical Ministers,
either naming the persons who shd. be ordained or committing that
care to the Bishops. p.24 & seq.

At first the Clergy's share of the Revenues was divided at the
discretion of the Bishop. but afterwd. the priests made ye division
among themselves exclud. the Bp. This gave beginning to every
man's property, & thus they ceased to live in common. The Church's
real Estates were called patrimonies. p.29

The princes distributed the public lands among their Soldrs
on condn. of serving in ye Warrs or in civil affairs &c. These in the
language of the Franks & Lombards were called Fiefs & in the
latin tongue beneficia as holden of the Prince's bounty, For
the same reason the portions of ecclesiastical Estates or the
right of possessing them were called Benefices. p.33.

The Abbies beyond the mountains being at this time
grown to vast possessions The Mayors of the palace took upon
them the making Abbots Unless that sometimes as a grace
the Monks had leave to choose themselves. In Italy untill
ye Year 750 they had passed unregarded by the gothic Kings
But the Bps being at that time grown to great power the Monks
to free themselves from ye Bps put themselves under power
of the Pope. Ib.

Origin of Tithes p.36, 46, 66, 113
Original of Cardinals p. ~~40~~ 40. Incardinatus, Ordinatus. 39
Title for Ordination p.43. Bps with Diocese called Nullatenentes
Canons in Cathedrals their Original & whence ye name p.54
Ecclesiastical Jurisdiction, its original p.55. Bishops to assist
the inability of the Comes. Ib.

Precaria what. 57.

Fiefs held of the Church. p.65

Elections of Bishops & Abbots to be by the Chapter &
by the Monks, & the conferring other Benefices to be by the
Bishops on presentation of the patrons. settled as a Rule
abt. the year 1145. p.106

Institution of the religious military Orders. Knights
Templars. St. John of Jerusalem & Teutonic. p.111

First fruits. 113
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Original of the popes provisions to benefices in foreign Kingdoms. p. 118.
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Union of Churches their beginning p. 139.
Commendams, their original p. 141.
Provisions to Benefices their success in Engl. under Ed. 3. p. 177, 180
Annates invented by pope John 22. d in ye beginn. of the 14. th Century.
Original of pensions. p. 221.
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